

**LIMITED LICENSE LEGAL TECHNICIAN (LLLT) BOARD**  
**AGENDA for February 15, 2018**

Washington State Bar Association  
1325 Fourth Avenue – Suite 600  
Seattle, Washington 98101  
1:00 p.m. to 4:00 p.m.

1. **Call to Order/Preliminary Matters** (1:00 p.m.)
  - Outreach Update
  - Approval of Meeting Minutes
2. **New Practice Area - Personal Services Subcommittee Report** (Nancy Ivarinen) (1:15 p.m.)
3. **Nominations Committee Report** (Brenda Cothary) (1:30 p.m.)
4. **Discussion of potential Consumer, Money, and Debt Practice Area** (Nancy Ivarinen) (1:45 p.m.)
5. **Discussion of RPC 1.15A(h)(9)** (Doug Ende) (2:30 p.m.)

**MEETING MATERIALS**

1. Outreach Update
2. Draft Meeting Minutes from January 18, 2018
3. Consumer Money and Debt Summary and Overview – **current draft**
4. BYU Law takes on 'debt collection epidemic' with new online tool



## LIMITED LICENSE LEGAL TECHNICIAN (LLLT) BOARD

**UPDATE: February 2018**

### Outreach & Press

Press:

- January 1, 2018: [Vancouver woman is first Limited License Legal Technician in Clark County](#) by Jessica Prokop. The Columbian
- January 12, 2018: [When UPL accusations against lawyer paraprofessionals are just protectionism](#) by Mary Juetten. ABA Journal
- January 24, 2018: [What Does it Mean to be a Big Law Lawyer in 2018?](#) By Stephen Poor. Bloomberg Law

Recent Events:

- December 13, 2018: Webinar for the National Organization of Bar Counsel. Steve Crossland, Doug Ende, and Paula Littlewood.
- December 20, 2017: Call with Utah representative regarding the development of their Paralegal Practitioner license. Steve Crossland, Jean McElroy and Renata Garcia.
- January 25, 2018: MentorLink Mixer
- February 7, 2018: NALs presentation. Christy Carpenter & Jean McElroy

Upcoming Events:

- TBD: KCBA LLLT Clinic Training
- February 2018: Presentation to the Law Society of Saskatchewan in Regina, Saskatchewan. Paula Littlewood & Steve Crossland.

### Statistics & Other Events

- Number of current LLLTs: 27
- 2 LLLTs are inactive
- LLLT Exam: February 26, 2018

### Meetings

Recent:

- January 5, 2018: LLLT Family Law Exam Workgroup Meeting
- January 17, 2018: LLLT Family Law Exam Workgroup Meeting
- January 18, 2018: New Practice Area Committee Meeting
- January 18, 2018: LLLT Board Meeting



Upcoming:

- February 15, 2018: New Practice Area Committee Meeting
- February 15, 2018: LLLT Board Meeting
- March 15, 2018: New Practice Area Committee Meeting
- March 15, 2018: LLLT Board Meeting



**LIMITED LICENSE LEGAL TECHNICIAN (LLLT) BOARD**  
**Meeting Minutes for January 18, 2018**

Washington State Bar Association  
1325 Fourth Avenue – Suite 600  
Seattle, Washington 98101  
1:00 p.m. to 4:00 p.m.

**LLLT Board Members in Attendance:**

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Stephen Crossland – LLLT Board Chair | <input checked="" type="checkbox"/> Nancy Ivarinen          |
| <input checked="" type="checkbox"/> Sarah Bove                           | <input type="checkbox"/> Andrea Jarmon                      |
| <input checked="" type="checkbox"/> Brenda Cothary (Remote)              | <input checked="" type="checkbox"/> Genevieve Mann (Remote) |
| <input checked="" type="checkbox"/> Greg Dallaire                        | <input checked="" type="checkbox"/> Ruth McIntyre           |
| <input checked="" type="checkbox"/> Jeanne Dawes (Remote)                | <input checked="" type="checkbox"/> Jennifer Petersen       |
| <input checked="" type="checkbox"/> Stephanie Delaney                    | <input checked="" type="checkbox"/> Amy Riedel              |
| <input checked="" type="checkbox"/> Lynn Fleischbein (Remote)            | <input type="checkbox"/> Kendra Hodgson – Ex Officio        |
| <input checked="" type="checkbox"/> Gail Hammer (Remote)                 |   |

**Staff and Others in Attendance:**

Christy Carpenter (LLLT #113), Barbara Esselstrom (LLLT #105), Bobby Henry (RSD Associate Director), Jennifer Ortega (LLLT #118 ), Anne Seidel, and Joe Terrenzio (LLLT Program Lead).

**Call to Order/Preliminary Matters**

The meeting was called to order at 1:03 pm.

• **Outreach Update**

Outreach updates were provided. Christy Carpenter and Jean McElroy will present to NALS in February. Sarah Bove reported presenting to Island County and will write a letter the County to support its efforts to include LLLTs. Barbara Esselstrom, Jennifer Ortega, and Sarah Bove reported having presented on LLLTs in Spokane. Jennifer Petersen reported that Skagit County is very receptive to LLLTs.

Steve Crossland mentioned an article in the Seattle Times about community colleges and the importance of outreach to community college programs. Ruth McIntyre recommended approaching the Bench-Bar-Press Committee. The LLLT Board and staff will be working with the WSBA Communications and Outreach Department to develop an outreach plan.



- **Approval of Meeting Minutes**

The December 2017 meeting minutes were approved.

### **LLLT Board Retreat & Meeting with Court**

Steve Crossland proposed the Board having a retreat this fiscal year and invited the Board to comment on the utility and benefits of such a meeting. The Board broadly approved of the idea and Steve will follow up with WSBA staff to determine what resources are available to implement a retreat.

Additionally, the Board has historically met with the full Supreme Court once per year. For 2018, the Court has stated it is available April 4 or 5 (preferred) or May 2. The Board agrees April 4<sup>th</sup> or 5<sup>th</sup> will work and will leave it to the Court to decide.

### **Presentation from Anne Seidel**

Anne Seidel from the Committee on Professional Ethics presented concerns the CPE has regarding the language in the Rules on Professional Conduct stating that LLLTs can sign checks for trust accounts at firms that have lawyers and LLLTs, and the language stating that any check that a LLLT in such a firm signs also needs to also be signed by a lawyer.

The Board discussed the issues that are presented under the LLLT RPCs, the RPCs for lawyers, the LLLT scope of practice concerns, and the practical difficulties these rules create in law offices that have both lawyers and LLLTs.

The Board will invite Doug Ende to attend its February 15<sup>th</sup> meeting to continue this discussion.

### **New Practice Area - Consumer, Money, and Debt Workgroup Report**

Nancy Ivarinen presented an overview of a suggested new practice area potentially titled Consumer, Money, and Debt. At its meeting prior to the Board meeting, the subcommittee reviewed and added further detail to the summary that was provided in the meeting materials. Nancy reviewed the kinds of matters that are included in the practice area and the various limitations planned to keep the practice area focused on low to moderate income clients, for example LLLTs only being able to do affirmative collection work for the original creditor.

The provided summary and outline will be updated to incorporate the additions mentioned. Nancy requests the Board review and approve this new practice area so that it can be circulated for comments.

Greg Dallaire suggested sending a letter to the Court providing notice that this suggested practice area will be circulated for comments before the Board opens the idea up for comments.



The Board agreed to give the Court notice. Nancy Ivarinen and Ruth McIntyre will work to revise the draft suggested new practice area.

### **Family Law Exam Committee Report**

Nancy Ivarinen reported that the Family Law Exam Committee met and the exam materials for the February 26, 2018 exam are ready.

### **Discussion of philosophy behind setting LLLT license fee amounts**

Steve Crossland reported on the philosophical discussion taking place regarding license fees - what should they be and should they be the same for different license types? One approach, which is the approach currently implemented at the WSBA, is to have many categories of licenses each with different fees. Another approach is to have one fee for all full licenses and one fee for all limited licenses.

The Board discussed the issues and by consensus agrees that two fees, one for full licenses and one for limited licenses is the best approach. For both full and limited licenses, the fee should be reduced for new licensees.

### **Discussion of philosophy behind assessments for Client Protection Fund**

Steve Crossland reported on the philosophical discussion of whether LLLTs should pay an additional assessment to the Client Protection Fund. Lawyers currently pay \$30 per license year. Currently, CPF funds are available to clients of LLLTs but LLLTs do not pay into the fund. The Board discussed the issue and agreed that LLLTs should pay the same CPF assessment that lawyers do.

### **Coordinated Regulatory System Discussion**

Bobby Henry reported on continuing efforts to implement the coordinated admissions and licensing system for all license types. Proposed amendments to the WSBA Bylaws to further implement some remaining changes necessary for coordination are before the Board of Governors for first reading at the BOG's January 18 & 19 meeting. The proposed amendments, if adopted, would apply the reduced new admittee license fees to newly licensed LLLTs and LPOs. In addition, they would establish the same procedures and similar course requirements for all members who have been inactive or suspended for more than six years when returning to active status.

The LLLT Board supports the ongoing efforts for the coordinated admissions and licensing system.



**LLLT RPC Discussion**

Greg Dallaire moved to approve the suggested amendments to the RPC for lawyers. The motion was approved.

**Adjournment and Next Meeting**

The meeting was adjourned 2:47 pm. The next meeting will be held on February 15 at 1:00 pm.



## **Consumer, Money, and Debt Law**

### Proposed new practice area for LLLTs

#### **Introduction**

The LLLT Board's New Practice Areas Committee has explored two potential practice areas for the next expansion of the LLLT license: 1) Consumer, Money, and Debt Law, and 2) Immigration Law. Both potential practice areas are intended to help meet a significant unmet legal need while giving LLLTs additional practice area options to expand their businesses and provide services to the consuming public. The Practice Area Committee divided into two workgroups to more effectively explore these two potential practice areas. The workgroup considering Consumer, Money, and Debt Law is chaired by LLLT Board Member Nancy Ivarinen.

When researching new practice areas for LLLTs, the workgroup considered:

- whether the new practice area would increase access to justice for potential clients with moderate or low incomes,
- whether there is a demonstrable unmet legal need in that area,
- whether it's possible to include consumer/client protection for those to whom the LLLTs
- whether the new area would provide a viable practice so LLLTs can afford to maintain a business,
- whether the substantive practice area classes can be developed and taught by the law schools in a three-class series, one per quarter, for five credits each, and
- whether there are experts available to help develop the curriculum and teach the classes.

In order to appropriately vet the potential new practice areas, the workgroup considered:

- statistics and reports discussing the legal need,
- comments by invited subject matter experts who explained what the practice areas entail,
- comments by these experts on what the LLLT could potentially do,
- workgroup discussion about the LLLT being properly trained in a limited scope within the practice area,
- and whether their practice area could be regulated appropriately so the needs of the clients can be met, while assuring that the clients would be protected.

#### **Evidence of Unmet Need**

The starting point of the workgroup's analysis was identifying the unmet need that can be addressed by LLLTs licensed in a consumer law practice area.

- The workgroup found convincing evidence supporting the existing legal need for consumer law assistance in studies conducted at both the state and national levels.

The workgroup also looked at statistics received from county-based volunteer legal services providers and the statewide Moderate Means Program, which demonstrated a consistent legal need in the consumer law area among low and moderate income people.



### *Statistics from State and Federal Studies*

- The 2003 (Statewide 0-400% of Federal Poverty Level) and 2015 (Statewide, 0-200% of Federal Poverty Level) Civil Legal Needs Studies identified Consumer, Financial Services, and Credit among the three most prevalent problems that people experience and seek legal help to address. There was an increase in legal need in this area from 27% to 37.6% between 2003 and 2014.
- The Legal Services Corporation June 2017 Report: The Justice Gap (National, 0-125% of Federal Poverty Level) identified consumer issues as the second highest problem area.

### *Moderate Means Program Data*

- The WSBA Moderate Means Program (Statewide, 200-400% of Federal Poverty Level) identified consumer issues as the second highest problem area. In addition, data provided by the program showed that consumer law represented 10% of the 2,321 requests for service from October 26, 2016 to October 27, 2017. Of the 233 consumer law requests, 74 related to bankruptcy or debtor relief and 71 were in collections, repossession, and garnishment.
- Data from the Moderate Means Program on requests for service from January 1, 2015 through May 1, 2017, show 523 of 3,062 requests for service in consumer law matters, about 17% of the total requests over that 28 month period.

### *Statistics from Volunteer Legal Service Providers*

- The King County Bar Association's Neighborhood Legal Clinics 2016 data showed that 15% (1,298 of 8,259) of legal issues addressed at the clinic were consumer law related.
- From 2012-2017 the King County based Northwest Consumer Law Center received 2,499 requests for service, all directly related to consumer law needs.
- Over the last three years, the Tacoma-Pierce County Bar Association Volunteer Legal Services had an average of 160 clients per year visit their Bankruptcy Clinic and an average of about 43 clients per year attend the Foreclosure – Home Justice Clinic.

### **How LLLTs Can Meet the Legal Need**

When reviewing the Civil Legal Needs Studies, the workgroup noted that it was unclear whether or not legal assistance would materially address the consumer law problems the subjects were reporting, and if so, whether that assistance could be provided through some method other than direct representation exclusively by a lawyer.

The workgroup discussed many examples of consumer legal problems that may not have a legal remedy, such as a debt collection lawsuit where the money is owed. While discussing each example, the workgroup saw advantages to providing the consumer with legal advice, even if there did not appear to be a legal resolution to the issue.

For example:

- In the example of the debt collection lawsuit, the statute of limitations on collection of the debt may have passed, so the debtor may not be obligated to pay even though the debt is owed.
- For those debtors who do have defenses or where collection agencies are attempting to collect a legitimate debt in an unfair or illegal manner, a LLLT could be a valuable consumer protection tool.
- Even for consumers who have no defense to a lawfully pursued debt collection lawsuit, having the assistance of an LLLT throughout the process of responding to a lawsuit would speed judicial efficiency, as the defendant would understand the procedures and be able to respond in an appropriate and strategic way.

Looking at the extensive self-help consumer debt collection resources offered on [washingtonlawhelp.org](http://washingtonlawhelp.org) confirms that many consumers already face this issue pro se, and would undoubtedly benefit from consulting with an affordable provider of legal expertise in this area.

The workgroup enlisted the advice of practitioners and other experts in the various areas of law to identify the legal work which could be effectively performed by LLLTs, as well as provide an economically sustainable practice area. The workgroup identified that Consumer, Money and Debt Law LLLTs should be able to:

- offer advice regarding all identified scope topics
- fill out certain forms
- engage in limited negotiation in regard to particular issues
- attend specific hearings to advise the client and assist in answering procedural questions
- attend depositions
- prepare paperwork for mediation, and
- attend any administrative proceeding related to the scope area.

The workgroup carefully weighed the pros and cons of each aspect of the proposed scope and determined that allowing this range of actions would greatly increase the quality of the service that the LLLTs could provide to their clients.

### **Target Clients and Scope**

The target clients of this practice area are moderate and low income people with consumer debt or credit problems, or those to whom a small amount of debt is owed. The workgroup narrowly prescribed the focus of the recommended scope in order to provide a maximum benefit to these clients.

The LLLTs do this by identification of limitations which ensure that LLLTs will provide service to consumers who do not have currently have resources in this area. The *2015 Civil Legal Needs Study* noted that the average number of legal problems per household has increased from 3.3 in 2003 to 9.3 in 2014. The legal problems that low-income people experience are

interconnected in complex ways; consumer debt, for example, can be exacerbated by landlord/tenant issues, divorce, domestic violence, identity theft, lack of access to benefits, problems with an employer, and a lack of exposure to options such as bankruptcy. The workgroup thought holistically about this range of issues which often go hand in hand with consumer debt and credit problems and identified a range of actions which could appropriately be performed by an LLLT in the areas of protection orders, bankruptcy education, wage theft, and identity theft. These enhancements to the consumer law relief the LLLT will be able to provide will allow LLLTs to proactively help their clients to break the cycle of debt creation.

**Proposed Consumer, Money, and Debt Law LLLT Practice Area**

Scope	Permitted Actions & Limitations
Legal Financial Obligations (LFOs)	<p><b>Permitted Actions:</b>            Assistance filling out forms (ex. Motion for Order Waiving or Reducing Interest on LFO, Order to Waive or Reduce Interest on LFO)</p>
Small Claims	<p><b>Permitted Actions:</b>            Assistance preparing the Notice of Small Claim Certificate of Service, Small Claims Orders, Small Claims Judgment, and counterclaims            Preparation for trial            Obtaining and organizing exhibits</p>
Debt Collection Defense and Assistance	<p><b>Permitted Actions:</b>            Negotiation of debt            Assistance filling out Complaints and Answers            Statute of Limitations defenses            Reporting Fair Debt Collection Act violations, including statute of limitations and state collection agency statute violations            Reporting to Regulatory Agencies</p>
Garnishment	<p><b>Permitted Actions:</b>            Negotiation            Voluntary Wage Assignments            Assistance filling out forms (Application for Writ of Garnishment, Continuing Lien on Earnings, Return of Service, Notice Exemption Claim Release of Writ of Garnishment Motion and Cert. for Default Answer to Writ of Garnishment Application for Judgment Motion/Order Discharging Garnishee, Satisfaction of Judgment)            Exemption Claims, including assistance at court hearings</p> <p><b>Limitations:</b>            LLLTs can assist only with debts valued at less than the jurisdictional limits set by the District Court (usually \$100,000)</p>

	LLTs may only collect debts for the original creditors and may not work for collection agencies or debt buyers
Wage complaints and Defenses	<p><b>Permitted Actions:</b> Representation in negotiations or hearings with Labor and Industries or in court</p> <p><b>Limitations:</b> LLTs may not represent clients in wage claims which exceed the jurisdictional limit set by the District Court (usually \$100,000)</p>
Student Loans	<p><b>Permitted Actions:</b> Negotiation of debt or payment plans Modifications Discharge</p>
Loan Modification & Foreclosure Defense and Assistance	<p><b>Permitted Actions:</b> Accompany and advise in mandatory mediation process Assist with non-judicial foreclosure actions and defenses under RCW 61.24.040 Advice regarding power of sale clauses and the Notice of Sale Right of Redemption</p> <p><b>Limitations:</b> LLTs would be prohibited from assisting with non-judicial foreclosures if the LLLT does not meet the requirements of RCW 61.24.010.</p>
Identity Theft	<p><b>Permitted Actions:</b> Advice regarding identity theft Best practices for protecting information Contacting credit bureaus Federal Trade Commission reporting</p>
Protection Orders Petitions, Responses, and Declarations*	Assistance completing Orders for Protection for domestic violence, stalking, sexual assault, extreme risk, adult protection, harassment, and no contact orders in criminal cases
Wage Complaints	<p>Advice and reporting regarding Minimum Wage Act Advice and reporting regarding Fair Labor Standards Act Actions permitted under RCW 49.48 (Wages-Payment-Collection) Actions permitted under RCW 49.52 (Wages-Deductions-Contributions-Rebates)</p>
Bankruptcy Awareness and Advice	<p>Explain the options, alternatives, and procedures as well as advantages and disadvantages Refer to budget &amp; counseling agency Refer to bankruptcy attorney</p>

If the proposed area of practice is approved by the Court, it will likely be narrowed further when the workgroup reviews additional public comments and when the Admissions and Education Committee drafts proposed regulations and curriculum for providing the substantive law education courses. The LLLT Board will also coordinate with the University of Washington School of Law in the creation of the curriculum and to ensure that appropriate teaching staff are available.

*\* Currently GR 24 reads: Exceptions and Exclusions providing assistance to complete a form provided by the court for protection under RCW 10.14 (harassment) or 26.50 (domestic violence) when no fee is charged. GR 24 should be amended to allow orders relating to RCW 7.90 (Sexual Assault)2; 7.92 (Stalking); 7.94 (Extreme Risk); 10.99 (No contact orders in criminal cases); and 74.34 (Adult Protection).*



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LEGAL TECHNOLOGY

## BYU Law takes on 'debt collection epidemic' with new online tool

BY JASON TASHEA ([HTTP://WWW.ABAJOURNAL.COM/AUTHORS/64729/](http://www.abajournal.com/authors/64729/))

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BYU Law School is addressing the “debt collection epidemic” in Utah by launching a new online tool.

The project, called SoloSuit, is the first designed by LawX, BYU Law’s legal design lab.

“Early in the semester, we realized that debt collection was a legal crisis in Utah,” said Kimball Dean Parker, LawX co-founder and class instructor, in a press release ([http://www.abajournal.com/files/BYU\\_LawX\\_SoloSuit\\_Release\\_embargo012418final.pdf](http://www.abajournal.com/files/BYU_LawX_SoloSuit_Release_embargo012418final.pdf)). He said that in the last five years, debt collectors filed over 330,000 lawsuits in Utah and that more than 98 percent of those sued did not hire an attorney. In some years, more than 80 percent of those sued failed to respond and lost their cases, regardless of their merits.

In an attempt to ameliorate this problem, LawX sought to design a potential online solution.

“SoloSuit provides a simple platform for debtors to respond to a lawsuit in as little as 10 minutes,” Parker said.

The public-facing web application asks a series of questions about the complaint filed against a self-represented litigant and his or her knowledge of the circumstances surrounding the claim. With that information, the program creates a written response to use in court.

While using a modern approach, the project came up against antiquated rules. In Utah, only attorneys are allowed to electronically file court documents, according to Parker—self-represented litigants have to mail or hand-deliver printed responses.

Accounting for this disconnect, the app generates a response to be printed and mailed by the self-represented user to the court and the suing attorney. But Parker thinks this workaround is insufficient. “Most of the debtors we spoke with don’t own printers or use the mail regularly. We estimate this rule alone prevents 15 percent to 20 percent of people from responding,” she says. “It needs to change.”

According to the release, LawX is working to resolve this issue with the Utah court system.

Beyond Utah, Brock Foley, a second-year law student at BYU, said in the press release that the Alaska court system and a nonprofit organization in Arizona focused on evictions will pilot versions of the tool.

The LawX program was founded in 2017 and aims to “solve one legal challenge each fall semester,” according to the release. Not focused solely on technology development, the program uses design thinking, a problem-solving method popular in the technology field, to also tackle policy and process issues.

Moving on to new projects, LawX transferred SoloSuit to LawY, an independent entity, for future development and deployment.



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