

MEETING AGENDA

January 10, 2020
10:00 A.M.

OPEN SESSION - 10:00am-10:30am:

- Review of Minutes
- Letter from Chief Justice on suggested APR 11 Ethics Amendment
 - Annual Meeting with Supreme Court?
- Course Audit Reports
- Board Recruitment

CLOSED SESSION – 10:35am -12:30pm:

- Activity Review
- Petitions, Appeals and Staff Liaison Decisions
- **Break for Lunch**
- End of Meeting

Minutes
October 4, 2019

The meeting of the Mandatory Continuing Legal Education Board was called to order by Chair Asia Wright at 10:00 AM on Friday, October 4, 2019. Board members in attendance were:

Asia Wright, Chair
Ayanna Colman
Chris Bueter
Robert Malae
Todd Alberstone

Liaisons and Staff attending were:

Adelaine Shay	MCLE Manager/MCLE Board Staff Liaison
Robert Henry	Associate Director, Regulatory Services
Gabriel Moore	MCLE Analyst
Russell Knight	Board of Governors Liaison

Review of Minutes for August 16, 2019 & August 28, 2019

The Board reviewed and approved the minutes from their August 16, 2019 meeting and their August 28, 2019 special meeting.

Diversity, Inclusion and Equity Training

Robin Nussbaum, WSBA Senior Inclusion & Equity Specialist, provided a 90 minute training to Board members on diversity, inclusion, and equity.

WSBA Board of Governors Liaison Introduction

The Board met and heard from the new BOG liaison to the MCLE Board, Russell Knight (At-Large Governor).

MCLE Board Orientation

Adelaine Shay presented to the Board a short history and overview of the MCLE Board, its structure, relationship to the court, and MCLE Board member expectations.

Sub-Committee Report: Discussion and Action on suggested APR 11 Ethics Amendment

Todd Alberstone reported back on his presentation of the suggested APR 11 amendment to the WSBA Board of Governors and their subsequent action. The Board further discussed the suggested APR 11 amendment. Todd Alberstone moved to send the suggested APR 11 amendment to the Washington Supreme Court, with minor typographical corrections and a revised implementation date. Ayanna Colman seconded the motion. All present voted yes.

Course Audit Reports

The Board heard reports from Asia Wright on her audits of *Admiralty and Maritime Law Basics*, *Avoiding #MeToo and Sexual Harassment in the Workplace*, and *Bias Elimination in the Legal Profession*.

MCLE Board Activity Reviews

The Board decided by motion on two members requesting review of accreditation decisions. No listing of this motion is included in order to protect member confidentiality.

MCLE Petitions

The Board approved Staff Liaison decision on one petition. The Board reviewed and decided by motion on two petitions. No listing of these motions is included in order to protect member confidentiality.

Adjournment

There being no further business at hand, the Board meeting was adjourned at 2:05 PM. The next regularly scheduled Board meeting will be at 10:00 AM on Friday, January 10, 2020.

Respectfully submitted,

Adelaine Shay
MCLE Board Staff Liaison

The Supreme Court
State of Washington

MARY E. FAIRHURST
CHIEF JUSTICE
TEMPLE OF JUSTICE
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December 11, 2019

Asia Wright, MCLE Board Chair
Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539

Dear Ms. Wright:

Thank you for the Mandatory Continuing Legal Education (MCLE) Board's submission of the suggested amendments to APR 11—Mandatory Continuing Legal Education (MCLE).

At the December 4, 2019 En Banc Administrative Conference, the Washington State Supreme Court reviewed the suggested amendment and voted to reject the rule change.

Very truly yours,

A handwritten signature in cursive script that reads "Mary E Fairhurst".

MARY E. FAIRHURST
Chief Justice

cc: Rajeev Majumdar, WSBA President
Terra Nevitt, WSBA Interim Executive Director
Adelaine Shay, WSBA MCLE Manager

MEMORANDUM

TO: Mandatory Continuing Legal Education (MCLE) Board and
Adelaine Shay, MCLE Board Staff Liaison

FROM: Gabriel Moore, MCLE Analyst

RE: Audit Report

COURSE SPONSOR: HalfMoon Education Inc.

COURSE TITLE: Washington Family Law Practice for Paralegals and LLLTs

COURSE DATE(S): October 31, 2019

ACTIVITY ID#: 1114827

ACCREDITATION: 6. 50 Total Credits (5.25 Law & Legal Procedure and 1.25
Ethics)

DATE OF REPORT: November 22, 2019

Executive Summary

The entirety of this activity's instruction is creditable. There were some technological issues that caused delays.

Sponsor

HalfMoon Education Inc. is a provider of live and pre-recorded continuing legal education for lawyers, paralegals and now Limited License Legal Technicians (LLLTs). HalfMoon Education Inc. provides their live courses across the country.

Nature of the Program

The seminar was an overview of the family law in Washington. It was comprised of 381 minutes of instruction including 75 minutes of focused ethics. There were 6 presenters, all of which were lawyers licensed in Washington.

Faculty

There were 6 presenters, all of which were lawyers licensed in Washington. Several of which attended each other's presentations, asking questions and providing additional insights.

Location/Time

The seminar was located in a conference room of *The Executive Inn By The Space Needle*. Session times:

8:45 am -10:30 am

10:45 am – 12:15 pm

1:00 pm – 2:04 pm

2:17 pm – 4:30 pm

Facilities

The conference room at *The Executive Inn By The Space Needle* was long and narrow, which was not ideal for hearing the speaker or viewing/reading the presentation screen. There was a microphone which some speakers used more effectively than others. The room was cold throughout the day and many attendees kept their coats on for most of the day. Coffee, pastries and other refreshments were provided throughout the seminar. Lunch was not provided.

List of Presenters and Their Qualifications

Linda Wilgis (former AAG of WA) Of Counsel – Integrative Family Law

Todd DeVallance - Managing Partner, Tsai Law Company, PLLC

Kimberly Kasin – Senior Associate Attorney, Tsai Law Company, PLLC

Dawn Sydney – Principal, Law Offices of Dawn Sydney, PLLC

Brian Tollefson – (former Pierce County Superior Court judge) Principal, Black Robe Dispute Resolution Services, PLLC

Rhea Rolfe – Attorney, Gilson-Moreau & Associates, P.S.

Written Materials

All attendees were provided large binders with all materials from the presenters. The materials were thorough. They included the presentation materials from the speakers and provided attendees with client intake forms, fee agreement templates, dissolution templates, temporary restraining order forms, et cetera.

Attendance

The majority of the attendees were paralegals or legal assistants. There was one lawyer (new to family law) and one LLLT. Several of the speakers also attended more than one session.

Presentation Analysis

The seminar began 15 minutes late due to technological difficulties with the projector. Facility staff assisted in resolving this issue. The first speaker, Linda Wilgis, covered client intake, including initial client interviews, engagement letters and opening files. She then continued with the second topic of the day, preparing pleadings and assisting with motions. Linda Wilgis spoke clearly though the microphone was not consistently picking up her voice. She paced her presentation to allow for ample note-taking and encouraged questions throughout her presentation.

The first break of the day was cut to 10 minutes to attempt to stay on the original schedule.

The next session was presented by Todd DeVallance and Kimberly Kasin. Todd DeVallance was the primary presenter. He covered obtaining and evaluating of financial information in divorce cases. His presentation was peppered with anecdotes of common tactics used to avoid disclosures and a few worst-case scenarios. Kimberly Kasin added to the presentation with examples from her own practices.

Lunch was shortened to 45 minutes in the effort to get back on schedule.

After lunch, Dawn Sydney began her presentation by asking all attendees why they were attending and what roles they currently played in their respective workplaces. Dawn acknowledged and replied to each attendees' comments and then focused her remaining time on importance of good communication with opposing counsel and clients. This was the most interactive session of the day as many attendees asked questions.

There was another short break and then Brian Tollefson attempted to begin his presentation. Again there were difficulties in connecting the speaker's presentation materials to the projector. This issue was not resolved, so Brian Tollefson began his presentation without the aid of his PowerPoint. He spoke about his experience as a mediator and arbitrator. He provided a contrast of the two processes and his recommendations of how to prepare for a mediation and arbitration. In the middle of the presentation, Brian Tollefson advised the attendees they were welcome to seek out his firm for such services.

The final presentation of the day was by Rhea Rolfe. Rhea Rolfe spoke clearly and projected her voice without need of the microphone. She covered paralegal's responsibilities under their lawyer's ethical duties. LLLT ethics were not specifically covered, but Rhea Rolfe noted they were somewhat different. There was an irreverent tone to the presentation which helped keep up the attendees' engagement at the end of the day.

Conclusion

This seminar was overall a success. Despite the technological issues and minor facility issues, the attendees were engaged throughout the day and the speakers imparted their experience and knowledge effectively. While there was a LLLT in attendance, the vast majority of the seminar was for paralegals.



WSBA

MEMORANDUM

TO: Mandatory Continuing Legal Education Board

FROM: Asia N. Wright

RE: Audit Report

COURSE SPONSOR: National Academy of CLE (United CLE)

COURSE TITLE: Drafting Prenuptial Agreements

COURSE DATES(S): Video Recorded July 21, 2015

ACTIVITY ID#: 404744

ACCREDITATION: 1.5 Law & Legal credit

DATE OF REPORT: 11/17/2019

Executive Summary

The entire program is creditable and 1.5 Law & Legal credit should be awarded.

Sponsor

National Academy of CLE ("NACLE") provides on-demand video CLE programs for jurisdictions across the country. NACLE provides full course credit via DVDs and Audio CDs as well as online courses with any Web Browser & our iOS/Android App depending on the respective state.

Nature of the Program

The course is a 90-minute lecture on the history of prenuptial agreements and how to draft the agreements.

Faculty

Malcolm S. Taub has over 37 years' experience practicing law and handling high profile cases. He has lectured on the issue of pre-nuptial agreements, as well as other Family Law issues, for various CLE programs.

Location/Time

This was an on-demand video course. You could stop listening and resume at a later time. The length of the course was as advertised.

Facilities

Not applicable.

Written Materials

The CLE course included a 106-page pdf. The pdf included two examples of prenuptial agreements.

Attendance

Codes were given during the video presentation (i.e. Point, Wall). However, there was nowhere to input the codes to obtain credit for the course.

Session Presentation Analysis

The method of the presentation was 100% lecture. The learning objective was to explore the basic ideas and concerns that must be considered with drafting the terms of a prenuptial agreement.

Overall, Mr. Taub gave a very good presentation. He spoke very clearly and slowly so that the material was easy to digest. The presentation focused on general prenup concepts, terms and New York law. I would have appreciated if Mr. Taub spent more time discussing and comparing other jurisdictions. The course also would have been more impactful if more practice examples were discussed. Additionally, as the class was called "Drafting Prenuptial Agreements," I would have thought there would have been more time spent on the nuts and bolts in drafting an agreement. However, Mr. Taub did not start talking about the clauses of the documents until the last remaining minutes of the course.

Conclusion

This CLE was a good CLE on the topic of prenuptial agreements. The entire program is creditable and 1.5 Law & Legal credit should be awarded.



MEMORANDUM

TO: Mandatory Continuing Legal Education Board

FROM: Asia N. Wright

RE: Audit Report

COURSE SPONSOR: myLawCLE

COURSE TITLE: Becoming a Board Director: What Attorneys Should Know – Live Video Broadcast

COURSE DATES(S): Live Broadcast on November 21, 2019

ACTIVITY ID#: 1120015

ACCREDITATION: 2.0 Other credit

DATE OF REPORT: 11/21/2019

Executive Summary

The entire program is creditable and 2.0 “Other” credit should be awarded.

Sponsor

myLawCLE provides live broadcasts and rebroadcasts of CLEs. The sponsor has CLEs covering a wide variety of topics within several practice areas.

Nature of the Program

The course is a 114-minute lecture on how attorneys can become a director of a non-profit, for-profit, or advisory board.

Faculty

Attorney Olga V. Mack founded the Women Serve on Boards movement that advocates for women to serve on corporate boards. She has successfully persuaded over a dozen Fortune 500 companies to recruit their first woman director. She actively advocated, testified, and mobilized for the passage of California SB 826, which requires California public companies to recruit women directors. She also authored *Get on Board, Earning Your Ticket to a Corporate Board Seat* (Business Expert Press, Summer 2019), to help demystify board service for all.

Location/Time

This was a live broadcast. You had to watch in real time. You could not stop listening and resume at a later time. The course ended six minutes before two hours elapsed. During the course the video froze and I could only hear the audio. Refreshing the page fixed the problem, but you could not go back and watch what was missed while the page reloaded.

Facilities

Not applicable.

Written Materials

The CLE course materials consisted of a half-page sheet outlining the course. Ms. Mack used a PowerPoint presentation, but a copy of the presentation was not available to attendees after the course.

Attendance

Codes were given during the presentation. At the end you inputted the number of codes to obtain credit for the course.

Session Presentation Analysis

The method of the presentation was 100% lecture. The learning objective was to prepare lawyers and other legal professionals to serve on corporate boards. One of the goals of the course was to dissuade attendees from the belief that the process of becoming a board director is mysterious and magical. In fact, it is quite achievable if the tips and suggestions presented in the CLE are followed.

Ms. Mack is a very accomplished lawyer who has served and currently serves on several boards. Her experience and the tips she gave provided a comprehensive step-by-step process on how to become a successful candidate for a board position.

The course definitely fit the definition for professional development and nexus subject credits outlined in APR 11(f)(3) and APR 11(f)(7). The tips given during the CLE enhance or develop a lawyer's, LLLT's, or LPO's professional skills of leadership and career development. Additionally,

although the material presented during the CLE did not deal directly with the practice of law, board membership is related to a lawyer's, LLLT's, or LPO's professional role as a lawyer, LLLT, or LPO. Ms. Mack was very good as showing the parallels between board membership needs and the skills developed in the practice of law.

Even though I found the CLE to be very inspiring and helpful, the CLE would have been more impactful if the written materials were more expansive and a copy of the PowerPoint was available. Additionally, I would have liked more background on California SB 826 and a discussion on whether other jurisdictions have similar legislation. If states do not have similar legislation, an explanation of what Ms. Mack did in relation to advocate, testify, and mobilize passage of the legislation would be very helpful and inspiring to legal professionals in those jurisdictions.

Conclusion

This CLE was a good CLE to attend if you are interested in joining a corporate board. The entire program is accreditable and 2.0 Other credit should be awarded.



MEMORANDUM

TO: Adelaine Shay, Executive Secretary, MCLE Board
FROM: Andrew L. Benjamin, (now former) MCLE Board Member
RE: CLE Course Field Audit
COURSE SPONSOR: WSAJ
COURSE TITLE: 2019 Annual Convention
COURSE DATE(S): September 18-20, 2019
ACTIVITY ID#: 1108176
ACCREDITATION: Total Credits: 12.0 (Ethics Credits: 1.0 L&L: 11.0)
DATE OF REPORT: October 10, 2019

EXECUTIVE SUMMARY

This annual convention seminar endeavored to assist plaintiff's personal injury attorneys be more successful in the prosecution of their cases. The seminar focused on trial skills, nursing home litigation, and had an ethics component. The trial skills and ethics/inclusion segments were particularly well done.

DISCUSSION

Sponsor WSAJ

I attended the first two days of the three day program in person. There was no live Webcast option. The sponsor's chairs did a great job making sure that the program started on time, that speakers repeated

questions, and alerted speakers of the time remaining. Sound and visual aids were all functioned properly.

Faculty

Ada K. Wong, Convention Co-Chair
Sims Weymuller, Convention Co-Chair
Roger Leslie, Nursing Home Litigation Deskbook Editor, Section Chair, CLE Co-Chair
Lisa Saar, Nursing Home Litigation CLE Co-Chair
Angela Macey-Cushman
Joanne Werner / Michelle Chan
Michael Fisher
Jeff Crollard
KJ Williams
Dan Ambrose
Alejandro Blanco
Ilya Lerma
Ed Capozzi
Fredilyn Sison
Courtney Rowley
Karen Koehler / Andrew Ackley / Jessica McClure
Sam Elder / Anne Vankirk
Brian Chan, DC
Michael Chan, DC

Location/Time

Bell Harbor International Conference Center, Seattle, WA.

Wednesday: 1:00- 5:00 pm.

Thursday: 8:30 am – 5:00 pm

Note: I did not attend the Friday Session.

Facilities

Room was state of the art for a CLE with excellent comfort, sightlines and sound control.

Written Materials

Each attendee was given an electronic course book of about 675 pp and a 500 Nursing Home Litigation Deskbook.

Attendance

The seminar enjoyed a fabulous turnout of approximately 325 lawyers. All desk seats were taken and auxiliary seating was used for latecomers. This was the largest CLE audience the auditor has seen in many years.

SESSION ANALYSIS

Wednesday

Except for the ethics hour, the afternoon's focus was entirely on content from the Nursing Home Litigation Deskbook.

Roger Leslie spoke about his innovation to obtain otherwise very expensive medical records via a Hitech med authorization release at very low cost.

Lisa Saar spoke on the use / prohibition of antipsychotic or chemical restraints.

Angela Macey-Cushman spoke about avoiding unintended consequences from a settlement that could mean losing Medicaid benefits.

Joanne Werner spoke on applicable statutes and regulations, interpretive guidelines, to see if the standard of care is violated. Ms. Werner's sources also gave roadmap to bibliographies, articles on topics.

Mike Fisher spoke at length on nursing home falls as viable cases.

Jeff Crollard provided an overview of the different levels of care for nursing homes and assisted living facilities. Although the material supplied by the Nursing Home speakers provided a good base line of information, the presentations were less stimulating than the rest of the convention.

KJ Williams was an amazing presenter on diversity and inclusion. She spoke of the need for intentional self-analysis in pursuit of equitable client representation.

Thursday

Dan Ambrose spoke on the Trojan Horse Method of Witness Preparation to increase their ability to animatedly describe his or her case.

Alejandro Blanco and Ilya Lerman continued the Trojan horse method of storytelling to persuade rather than convince. Convince defined as defeat in argument, while Persuade instead means to bring over by talking. All of the Trojan Horse speakers were wonderful.

Ed Capozzi described his Domino Theory way of presenting proximate cause in a way that is easy to understand for jurors. Mr. Capozzi was very funny, and was very well received.

Fredilyn Sisa gave a one hour presentation on psychodrama as a way to pull the full story from a client or witness. I had heard her speak before when she was wonderful, but I thought her presentation on this occasion came across a bit dry.

Courtney Rowley of the Trial Lawyers College spoke via skype on voir dire trial strategy and litigation. Skype worked well for the speaker, except when she played focus group video from her end it is choppy and difficult to understand. The video should and could have been played locally, rather than over the skype. Ms. Rowley spoke about the need to understand the defense's opening statement in order to prepare your jury instructions and frame discovery around the instructions.

Karen Koehler (and her colleagues) spoke about her role on the Ride the Ducks Trial. She described the strength in all plaintiffs and counsel sticking together all for one, one for all. She described all of the technology advances employed on the case, without which it would have been next to impossible to manage the project.

Sam Elder, Anne Vankirk and Drs. Chan spoke on the use of a Biomechanical Expert at trial. Accident reconstruction expert is appropriate when damage can be measured in inches or feet to determine speed, but is misused in low impact cases with little metal crush.

FYI - Recruiting MCLE Board Members

The application process for the 2020-2021 MCLE Board year will open on or around January 20, 2020. Nominations for open positions on each standing committee and board are made by a nomination team comprising the staff liaison, BOG liaison, and chair. Supreme Court boards may also share redacted applications with and solicit feedback from their board members. MCLE Board members may serve two consecutive terms.

Application timeline: *Note: all dates are aspirational and may be adjusted as needed*

Application timeline – WSBA members: *Note: all dates are aspirational and may be adjusted as needed*

- Application available to members on myWSBA: January 20 (est.)
- Applications available for nomination teams and BOG members to view: January 31
- Last date to apply via link on myWSBA: February 28*
- Applications available for BOG members to make nominations and/or recruit: March 2-27
- Staff liaisons enter nominations from nomination teams: March 30-April 10
- Duplicate nominations resolved, slates finalized: April 13-24
- Slates sent to BOG and published on WSBA website: April 27 (at earliest)
- BOG Nominations Committee makes appointments/SC nominations: May 11 (at earliest)
- Appointments/SC nominations finalized or sent to BOG for review: May 18 (at earliest)

Public Description:

Legal professionals in the state of Washington must continue their legal education throughout their careers in order to remain eligible to practice law. The MCLE Board plays a critical role in defining and determining compliance with the minimum education requirements under APR 11. The Board meets five times a year to consider MCLE policy issues and makes determinations on petitions, appeals, and special requests submitted by licensed legal professionals and CLE sponsors. This includes reviewing requests for waiver and extension of time to meet the minimum education requirements, and holding hearings on denied requests. Board members also audit CLE courses throughout the year to ensure CLE providers are complying with APR 11. In addition to attending what are usually half-day meetings, members should expect to spend several hours reviewing materials prior to the meetings. Individuals with diverse backgrounds, teaching experience, and technology skills are encouraged to apply. Appointment is for a three-year term; two consecutive terms may be served.