

WSBA Family Law Executive Committee Meeting Minutes

Meeting date and place: November 19, 2022, by Zoom

FLEC member name	Present?	Proxy	Alternate proxy	Unexcused?
Deborah Bianco	no			
Shelley Brandt	no	Pat Rawnsley	Kimberly Loges	
Cynthia Buhr	no	Dawn Sydney	Tamara Garrison	
Stephen Foster	yes			
Christopher Fox	yes			
Tamara Garrison	yes			
Elizabeth Helm	yes			
Jacqueline Jeske	yes			
La Vonna Jones	yes			
Kimberly Loges	yes			
E. Susan O'Toole	no	Jackie Jeske		
Patrick Rawnsley	Yes			
Tonilynn Savage	no	Jackie Jeske	Beth Helm	
Mei Shih	no	Jackie Jeske	Beth Helm	
Dawn Sydney	yes			
Boaz Weintraub	no	Chris Fox	Jackie Jeske	
OTHERS				
*Non-voting member				
Alan Funk				

Nancy Hawkins was present as the BOG liaison.

Secretary went through roll call and proxy votes.

Adoption of the Agenda/Minutes: Shelley is not present so there will not be a Treasurer’s Report. Jackie moves to approve agenda. Pat seconds. The minutes from September were not circulated. Kim will need to work with Deb on Deb’s addition to the minutes from September.

Elections: Beth asked if anyone was interested was interested in the Chair-Elect position. Tamara expressed interest in the position. Beth asked if anyone was opposed to Tamara serving as Chair. There was no opposition. Tamara was elected as Chair-Elect.

Legislative Liaison Report: Discussion of rule changes to rules GR 31 and CRJ 55. Pat doesn’t believe we need to take a position on GR 31—there is no need and Justice Madsen was the person putting it forward. Pat has not heard much about the UFLAA or the changes to it.

Pat mentioned there are discussions about whether there will be a “UGA 4.0” and possibly future changes to the UGA. If FLEC wanted to bring forth any legislation, it would need to go through the WSBA. It would be better for us to try to work directly with legislators to suggest changes rather than introduce legislation.

Tamara mentioned a case that the Supreme Court is hearing this term that we may want to keep on our radar. *Haaland v. Brackeen*. The case deals with ICWA.

Winter Family Law CLE Update—Jackie has reached out to speakers and lined up four speakers so far. She has been trying to look at dates and is now looking at May. She does not believe the CLE will impact the skills training or the mid-year. Pat has agreed to discuss the UFLAA updates. We will need to change this to a Spring Family Law CLE from a Winter CLE.

CLE section splits of net revenue: Shanthi Raghu and Kevin Plachy joined us. In 2019 the fiscal policy was changed for CLE splits. Previously the fiscal policy only allowed the split of live revenue. Now they take the live revenue and the 3-years on demand revenue and split it with the section. The way it works is that sections will see the results 3 to 4 years down the road after on demand CLEs are in the pipeline. For this year, Kevin ran through the numbers as shown below. The total split to be transferred on the September finances will be \$27,204.22.

Family Law 18529	The 2018 Family Law	6/29/2018	no longer on store-earned around \$8.3k split
Family Law 19529SPO	WEBCAST The 201	6/21/2019	\$ 1,260.70
Family Law 19547	WSBA Family Law	12/7/2018	no longer on store-earned around \$10k split
Family Law 20547	WSBA Family Law	12/6/2019	On demand sales significantly lower
Family Law 20529WBR	2020 Family Law S	6/19/2020	\$ 7,074.38
Family Law 21529WEB			\$ 16,452.80
Family Law 22529WEB			\$ 2,416.34
FAMILY LAW TOTAL			\$ 27,204.22

Jackie asked if WSBA has seen a demand for on demand CLEs across the board? Kevin-2020 sales were low because the 2020 reporting year was extended to the next year creating a larger group purchasing on-demand CLEs in 2021. Kevin pointed out that for the last three years our costs for putting on the mid-year were much lower so when combined with the on demand sales, we most likely are making more than when the mid-years were in person.

Continuing Discussion regarding CLE splits:

Pat: Nancy and I are the most tenured. Nancy came a year after. Nancy was on top of this when it came down the pike in terms of how the member costs/splits were determined. I'd like to defer to her.

Nancy: I can answer what happened before. We got \$-0- from the online sales. The new plan to split was approved because we were receiving \$-0- for our CLEs, which we produced. I have been considering that we plan programming based on budgeting and other factors. For instance, we do not pay the same cost for a 1 hour or 1.5 hour CLE. Perhaps we do not have a May or December CLE, but do have monthly 1-hour events. Doing so could help us generate more section interest. During the pandemic, WSBA had an increase in revenue that was \$1M over the projected budget. That raises the question: In what way(s) should sections benefit? We have been told that the per member charge is determined by the budget from the prior year. It is important to examine our pattern of activity and determine if the way we do

business now is the right fit for 2023 and going forward. We paid \$20,000.00+ for food and hotels back in the day. We may not see the same expenses going forward.

Two hours should be set aside for the January 2023 meeting w/ Kevin Plachy and Shanthi Raghu.

Pat: Concurs with Nancy regarding the extraordinary level of expenses for prior midyear CLE events. He believes there are potential landmines to consider. WSBA is responsible for accreditation of any CLE event. If events were conducted outside of WSBA, would there be difficulty?

Beth: Our Training Committee should consider these issues. The Training Committee can make recommendations on how we conduct our trainings. The Training Committee may meet before the next scheduled FLEC meeting on January 7, 2023.

Committee Members discuss whether/how CLEs can be set.

Dawn: WSBA says how many CLEs can be earned for a program.

Jackie: There is policy that tells us how much time and what must be done to earn CLE credits.

Dawn: Is it possible to put on a 10-hour CLE that does not receive accreditation?

Nancy: There are a certain number of minutes mentioned in the policy to earn a certain amount of credit. There is also a requirement to have written materials and other details.

Dawn: We should have the policy in hand when having this discussion.

Chris: Maybe we could do a short one-hour program. Would a transcript of a CLE qualify as written materials?

Nancy: No. Be we are not charged for one-hour programs. There are different calculation policies for short programs.

Beth: Can we sell short programs?

Nancy: There's a separate process to sell a short program. I'll get the specifics.

Chris: Maybe we can annotate the transcript using Lexis. Maybe then we would have written materials that would allow WSBA to sell the product.

Nancy: You can get credit for one-hour products. Maybe my earlier statement regarding a requirement for written materials has an exception or maybe it's a policy that can be changed.

Beth: We are wandering into later parts of the agenda. Let's discuss changing the bylaws.

Chris: I'm happy to pause while you...

Beth: No need.

FLEC bylaw amendment discussion: There was a request to amend FLEC's bylaws as follows:

Members of the Family Law Executive Committee (FLEC) may continue to serve on FLEC even if no longer in active status. This shall be true so long as the member's transition from active status is not related to discipline. "Not related to discipline" shall include involuntary and voluntary transitions from active status.

Jackie: Inactive attorneys who want to serve may offer great experience. When leaving the bench, I knew I wanted to offer more, but I did not want to go into practice. I am able to serve because NWIRP (Northwest Immigrants Rights Project) covers my malpractice insurance. This is a good policy. I fear Nancy and Chris leaving FLEC with their depth of experience and institutional knowledge.

Nancy: Similar issue raised in the Budget and Audit meeting. Our issue is with Executive Committee Leadership, but the larger issue deals with WSBA membership. In addition to the issues raised by Jackie regarding payment of licensing fees and malpractice insurance is the concern that resignation may give the false impression that someone has been disciplined. Budget and Auditing will evaluate the following:

- 1) Retiring attorney's willingness v. ability to pay licensing fees. There are those who are able to pay but are not willing to pay. There are also those with limited means who are not able to pay. Should there be a distinction?
 - 2) Financial impact on WSBA. If every attorney age 70 and above has a discounted rate, the result could be a loss of about \$.5M to WSBA.
 - 3) Authority to address the issue. Some of the elements of licensing are governed strictly by the Supreme Court. Does WSBA have the authority to make changes to membership rules?
- Recommendation: We should have a longer discussion on the larger issue at another time.

Tamara: This issue doesn't just affect older attorneys. Tamara's LLLT licenses is scheduled to expire in February 2023. Tamara will be sitting for the bar exam in February 2023 but will not know the results until months later when she can again be licensed. In order to remain active pending passing the bar, she and others who are similarly situated will be required to pay bar dues twice in one fiscal year.

Jackie: From her perspective, there is very little downside to allowing people who wish to serve the ability to serve, even considering the financial implications for WSBA. It is valuable to keep good lawyers engaged. Why not support people who are interested in contributing (volunteerism for boards/pro bono activities/etc.) when people with substantial knowledge are interested and willing to work without profit.

Beth: Concurr. Moves to vote on the issue.

Dawn: Procedurally, do we need to craft the language?

Beth: I move to amend the bylaws to allow inactive members to participate on the Executive Committee.

Chris: If a person is not actively practicing and does not anticipate practicing. There is a cost factor because of malpractice insurance. As a Qualified Legal Service Provider (QLSP), malpractice insurance is provided when I consult. There is some middle ground between pro bono work and what I do.

Jackie: There are two pieces to unpack. 1) Not all IRC 8501(3)(c) organizations provide insurance. 2) If someone is inactive and they are not currently members of the Executive Committee but want to run for a position, does that make a difference?

Beth: Maybe we should decide if we limit this to our Committee or specific types. Is there still emeritus status? Maybe we don't have to. But I would like to take care of this by January.

Nancy: Can we approve existing membership? Maintain existing executive committee members who are moving away from active status for reasons other than discipline. This proposal initially came from the Senior section. The idea is that a person moving from inactive status can continue, excluding voluntary resignations due to discipline.

Jackie: ... voluntary resignation

Nancy: May be disciplinary

Jackie: We must take this seriously as this is an amendment and it must go to the BOG for approval.

Dawn: Concurs with Nancy

Pat: Concurs with Nancy

La Vonna: Concurs with Nancy

Dawn: I move to amend the bylaws to permit.....

Break taken

Dawn: I move to amend bylaws as follows:

Members of the Family Law Executive Committee (FLEC) may continue to serve on FLEC even if no longer in active status. This shall be true so long as the member's transition from active status is not related to discipline. "Not related to discipline" shall include involuntary and voluntary transitions from active status.

Jackie: seconds Dawn's motion.

Beth: Having had discussion, call to vote. No opposition. Motion passes unanimously.

Nancy: Should there be a motion granting Beth authority to edit as needed?

Pat: I move that Beth be authorized to modify the language of the proposed amendment to the bylaws in her discretion, such that the language is consistent with existing bylaw language.

Jackie: Seconds Pat's motion.

Beth: Having had discussion, call to vote. No opposition. Motion passes unanimously.

Mid-Year 2023 Report: Dawn: Met with WSBA liaisons to discuss funding and getting sponsorship. The issue for this committee is doing it differently. They would like one day focused on participatory skill building. We were talking about hands on things for trial like getting exhibits before the court. Day 1 – presentations. Day 2 – focus of three skills. Examples: trial preparation; trial exhibits; and cross examination. This would be interactive with breakout sessions and practice. I went to a program in Boulder 8 years ago and it was more than just being talking to.

Dawn: Preparing a zoom trial ahead of time. Do's and Don'ts → What we've learned so far. Thinking of ways to make it interactive. One day of advanced skills training.

JJ: Loves the ideas. The piece about Zoom trials would be valuable. Concerned that some of the topics (like objections/cross exam) may not appeal to the audience that attends the midyear. Perhaps some of the topics are better for the Basic Training. Midyear participants are often in the middle of or further along in their practice. They may not stick around for this part of the session. But these type of sessions would be an excellent fit for 1 or 2 hour programs in the Basic Skills series. This is also a great way to get newer attorneys in the pipeline for Midyear events. This is my gut check.

Dawn: Every time I have a trial, this type of thing comes up for me. It is interesting you refer to this as a basic skill. Are these basic? Who is our audience?

Tamara: You (Dawn) and Cynthia have practiced longer. There is value especially if participation is available. Attorneys can participate in full or in part. I have only had one trial. But I have observed a lot and there is room for improvement. Maybe the rules of evidence do not come up as much as if this was criminal.

Dawn: I go to a litigation CLEs and would like to bring some of that to our bar. For instance, things like the best way to get text messages and 911 tapes admitted to the record.

JJ: Maybe I've got it wrong.

Dawn: I don't do it all the time. So, I'm looking at my reference books.

Pat and JJ: Mauet: [Trial Techniques and Trials, Eleventh Edition | Mauet, Easton | 9781543825312 | Aspen Publishing](#)

Dawn: On tv, you just say "objection" and the court rules. That's not what our judges do. I'm going to review my notes. There was an exercise that helped people to practice actively listening.

Beth: How well would that translate to an on demand CLE?

Dawn and JJ: It might ..

Tamara: Different type of learners. Some are great listeners, seeing, doing. We need to reach different types of learners. Newer attorneys would be interested.

Nancy: I trust the Midyear Committee to make decisions. It may be different, but why not?! I love the interactive presentation. It can be helpful. One caution: A speaker that puts someone on the spot who is unwilling to participate. Nancy had a past event where experienced lawyers paired w/ attorneys with less experience. The feedback was very positive. Sometimes, it ... How to impeach. It is shocking what happens in trial.

Beth: I trust the Committee to create a program that is informative, innovative, and interesting. The training Committee will meet in December and discuss what we will do with this.

La Vonna basic skills

Connected with Cowlitz county person - options for dates are March and April. Due to scheduling conflicts, it will be in April. Weekend of April 20 (around that day) – want it to be a Friday Saturday, not Thursday Friday. La Vonna going to confirm the two days. May be impacted of getting security for court on a Saturday and cost for same. Would like to do video as part of the motions practice. Need to

connect with Chris to make sure this basic skills training dovetails with other basic skills training happening around state.

Nominations Committee Report from La Vonna. Connected with WSBA to get information about how other sections explain this. Who has expiring terms this year? Dawn, La Vonna, Cynthia, Deb, Chris.

Website Report from Chris: The preference, as decided in a prior meeting, is to re-vamp, using the WSBA platform. WSBA staff will upload info. The alternative, Square Space, requires a dedicated FLEC member to keep the site active and avoid lapses. Lapses lose audiences. We should do whatever is easiest.

Jackie: I have an interest in working you (Chris) and Tamara.

Chris: Bo is also on this Committee.

Bog Report from Nancy:

- 1) Demographics
 - a. Family Law is the 5th largest section
 - b. Our membership increased from 988 to 1,013
 - c. The BOG discussed reduction of volunteer availability
 - i. Nancy noted that people are involved with other things they care about and that there may not be an interest
 - d. There is a lot of focus on rural practice
 - i. 1/15/2022 – Rural Practice Day
 - ii. Most of the bar membership is in Seattle and the greater Puget Sound area
- 2) Licensure Issues
 - a. Whether the Bar exam should be required in the future
 - i. Are there reasons other than tradition?
 - b. Does success on the Bar exam correlate w/ good attorneys
 - c. Supreme Court Justice Montoya-Lewis is the contact
 - d. There is also a focus on financial issues related to the Bar exam
- 3) Vaccination Policy
 - a. WSBA will encourage masking, recommend policy be rescinded for volunteers
 - b. Executive Director will make decisions about masking for staff
- 4) Criminal Rule for Limited Jurisdictions 4.7
 - a. Rule will be gender neutral
 - b. Courts do not always use the term defendant. May use terms such as participant or interested party, or other terms in lieu of defendant.
 - c. Participant might be applied to witnesses and the State
 - d. No current application to family law, but should keep an eye on this
- 5) Amendment of Corporations Act
 - a. This was unanimously passed by the Committee and recommended by the Legislative Review Committee.
 - b. When it went to the BOG, it was recognized that a GR 12 analysis had not been conducted.
 - c. BOG went into executive session (a closed door meeting) about the issue
 - i. Nancy's concerns include lack of transparency about how their determinations are made when in session and why there was a need to discuss something

which had already been approved and had the recommendation of the Legislative Review Committee. This could happen to us. So it is a procedural issue worthy of notice (procedural fairness), although BOGT ultimately approved the amendment.

- 6) Executive Director
 - a. BOG is considering developing a standardized method for evaluating an Executive Director.
 - b. From Nancy's perspective, the current Executive Director is doing very well.
- 7) BOG Recruitment
 - a. Under current policy, an outgoing Governor is expected to help recruit their replacement.
 - b. Because the policy does not necessarily lead to the broadest pool of candidates, this policy was questioned.
 - c. The motion to suspend this policy passed.
- 8) Law Clerk Program (APR 6)
 - a. One of the new Governors was admitted via APR 6. She is the first known person admitted via the program to be a Governor. She is from Yakima.
 - b. APR 6 allows people to work in their community without leaving for school.
 - c. To encourage this program, there is discussion about granting CLE credits to a supervising attorney. This should be up for vote around mid-2023.
 - d. There is an upcoming event. Law school representatives will be in attendance

Beth: Meeting Dates: Reluctant to nail down in-person dates due to the number of people not present. Would like two in-person meetings. One will be right before the July Midyear event. Will vote on the other later.

Pat: Suggests 6.24.23 as an in-person date

Jackie: That is the first week school-aged students are out of school and also the weekend of the BOG meeting.

Dawn: We can decide later if we need an extra meeting in August.

Beth: We can also decide later about the location for the in-person meeting. We no longer have an in-person meeting with Red Lion in Olympia.

Jackie: Nancy has recommended a place near the airport to keep down costs for those who must travel.

Pat: We might need an extra 1.5 hour meeting in early February to address legislative action.

Dawn: What about the last weekend of January?

Pat: Probably will have to be February. Everyone should know about it. He does not want to set it, but he does want everyone to have heads up.

Dawn: Should be scheduled.

Beth: I'll put it on the calendar as needs to be scheduled.

Pat: Suggests 2/4/2023

Jackie: If you get an email, you MUST attend or give your proxy to someone who can vote on legislative matters. When you give your proxy, do not give it to Beth or La Vonna.

Miscellaneous:

Jackie: Obtained and sent plaques and cards to Christy and Zach for their service on FLEC. Also sent a gift card and letter to Carrie (on BOG) for her volunteer work on the Nominations Committee.

Beth: Moves to adjourn the meeting

Jackie: seconds Beth's motion

Beth: called to vote. No objections. Adjourned.