

**SENIOR LAWYERS SECTION  
EXECUTIVE COMMITTEE MEETING AGENDA  
Wednesday, August 10, 2022 at 10:30 am**

Topic: Senior Lawyers Executive Committee

Time: Aug 10, 2022 10:30 PM Pacific Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/89074142857>

Meeting ID: 890 7414 2857

One tap mobile

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+16699009128,,89074142857# US (San Jose)

1. **Welcome:** Eleanor Doermann
  
2. **Secretary's Report:** Al Armstrong
  - Review and approval of minutes from July 13, 2022 meeting
  
3. **Treasurer's Report:** Steve DeForest, Joe Gordon
  - May reports.
  - 2023 Budget proposal
  
4. **Elections:** Carole Grayson, Jeanine Lutzenhiser
  - Young Lawyer Liaison
  - Officer Succession Plan
  
5. **Webcasts/Mini-CLE's:** David Sprinkle, Eleanor Doermann
  
6. **Newsletter:** Eleanor Doermann, Jim Riehl
  
7. **Other?**
  
8. **Adjourn**

**SENIOR LAWYERS SECTION  
MINUTES OF THE EXECUTIVE COMMITTEE MEETING**

**July 13, 2022**

This meeting was conducted via Zoom. The following Executive Committee members were present at this meeting: Chair Eleanor Doermann, Jeanine Lutzenhiser, Al Armstrong, Carole Grayson, Joe Gordon, David Sprinkle, Steve DeForest, Brian Comstock, and BOG Liaison Jordan Couch and Carolyn MacGregor, WSBA Sections Program Specialist. Not able to be present were Jim Riehl and Morrie Shore.

**CHAIR'S REPORT AND REPORT BY KEVIN PLACHY**

Eleanor welcomed the Committee attendees.

Eleanor indicated that Kevin Plachy, currently WSBA's Director of Advancement, was currently present on audio Zoom with a summary of the Bar's current approach to the issues raised by the on-going national controversy over the constitutional propriety of integrated state Bar Associations.

Kevin reported that, as our State Supreme Court had asked the BOG to consider what stance our Bar should assume with respect to our (currently) integrated Bar, the BOG has formulated a process by which our various WSBA sections can be heard on the matter: ETHOS-Examining The Historical Organization and Structure of the Bar. Pursuant to this process, the BOG has hosted five meetings and will host two more, the last one on August 13. Three questions are considered at these meetings: does the current state of federal litigation require us to make a structural change; if no change is currently required, what contingency plan should exist should the U.S. Supreme Court eventually require such a change; and, irrespective of any federal court holdings, what structure is best for our Bar. Kevin noted that the U.S. Supreme Court, at this point, will not be directly involved, having denied certiorari in three cases dealing with challenges to integrated bar associations.

Kevin reported that several Bar sections are on record as favoring staying with our current integrated bar structure. No section has recommended a bifurcated structure. It was mentioned that it could cost more to join a section under a bifurcated system. It was recommended that any input from our Section should be submitted at or prior to the second-to-last BOG meeting, scheduled for July 23.

The BOG will notify our Washington Supreme Court of its findings and recommendation at the end of September.

Kevin set forth several means of expressing one's views on this issue:

- Work through the WSBA Member Engagement Counsel to make your views known.
- Write a letter and send it to Kevin, who will forward it to ETHOS.
- Attend an ETHOS meeting and express your views.

Jordan indicated that he will also be available to forward our views to ETHOS.

Jeanine asked Kevin if he is aware of anyone who was in favor of bifurcation. Kevin replied that the people he has discussed the matter with seem to favor remaining an integrated organization.

It was mentioned that in the event our Bar remains officially integrated, we may want to consider creating a new political action committee, funding it independently, but with the sections remaining part of the WSBA.

It was mentioned that we are awaiting the impact of a decision by the Ninth Circuit in the *Crowe* case. The Ninth Circuit held that the plaintiffs' freedom of association claim was viable, reversing the holding of the Federal District Court. The plaintiffs filed a writ of certiorari, but this was denied by the U.S. Supreme Court in October, 2021.

In response to a question, Kevin briefly addressed the Keller Deduction, by which a bar member is allowed a small deduction from his/her WSBA dues, ostensibly freeing the Bar member from having to support Bar political initiatives he/she may not support. Kevin indicated that in the past the Bar did an extensive study to determine the cost to the Bar of its political activities and in so doing established the amount of the Keller Deduction.

It was mentioned that if the Ninth Circuit mandates a change in our Bar structure, that ruling would be binding immediately.

Eleanor stated she would send an email to the Committee members indicating what manner of input we will undertake.

## **NEWSLETTER**

It was noted that our latest Newsletter was sent out yesterday. The content of the latest edition of *Life Begins* was praised by our publisher Brett Sutherland.

## **SECRETARY'S REPORT**

The Minutes of our June 21, 2022 meeting were approved by Motion.

## **TREASURER'S REPORT**

Our Interim Treasurer, Steve, reported that our fund balance as of May 31, 2022 stood at \$16,330.27.

## **OUR BUDGET PROPOSAL FOR NEXT FISCAL YEAR**

Joe, our fiscal year 2022-2023 Treasurer, has been working on our proposed Budget Request for the next fiscal year. Joe had prepared a first draft which was shared with the Committee. Carolyn thought we should use the current Section membership figure of 222 members rather than use the 270 figure used elsewhere. We will keep our yearly dues at \$25. The yearly Newsletter costs were estimated at \$1,800. Anticipating a future need to have an in-person meeting venue, it was decided to budget \$500 as our annual cost for this convenience.

### **OUR RECENT WEBINAR**

Our Section presented a live webinar on May 26, with the theme *The Future is Nigh: Scenarios for Succession Planning*. The Committee discussed attendee feedback. Carole indicated that our presentation was rated (a weighted average, between 1 and 5) between 3 and 4. Speaker Pete Roberts received much praise for his presentation.

### **ELECTIONS**

All presently-serving Executive Committee members were re-elected, as were our soon-to-be newcomers Jennifer Rydberg and William Cameron.

### **YOUNG LAWYER LIAISON**

Sabiha Ahmad has submitted her application to be appointed out Young Lawyer Liaison. SOME SORT OF MOTION PASSED.

### **OTHER MATTERS**

Carolyn mentioned that Open Sections Night, originally aimed at young attorneys, has not been attracting these attendees in sufficient numbers of late. Carolyn suggested that we discuss the matter relative to other alternative Open Sections Night formats.

### **ADJOURNMENT**

Eleanor adjourned the meeting.

### **NEXT MEETING**

Our next meeting will take place on a remote-attendance basis on August 10, 2022 at 10:30 am.

**2023**  
**SENIOR LAWYERS SECTION**  
**WASHINGTON STATE BAR ASSOCIATION**  
**AMENDED FY 2023 BUDGET REQUEST**

**REVENUES:**

**Operational Revenue**

40500 Interest income on Fund Balance	\$ 90.00
48200 Section Dues Revenue	\$5550.00 (222 members x \$25.00)

**CLE Related Revenue**

41850 Seminar Splits with WSBA	\$0 (May, 2023 full day CLE)
41850 Mini CLE	\$2720.00 (2 webinars)

**Total Revenue** **\$8360.00**

**EXPENSES:**

**Operational Expenses**

50165 Conference Calls	\$ 250.00
58400 Per Member Charge	\$3920.52 (222 members x \$17.66)

**Member Benefits**

58375 Newsletter/Formatting Expenses	\$1,800.00
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**Executive Committee Related Expenses**

58300 Meeting facilities, travel	\$ 500.00
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**Total Expenses** **\$6470.52**

**Budgeted Net Income (Loss) for FY 2023** **\$1,889.48**

# **SENIOR LAWYERS ETHOS MEETING INFORMATION & BACKGROUND**

**JULY 13, 2022**



# WHAT IS ETHOS?

**Ongoing litigation regarding the constitutionality of integrated bars has continued since the last structure study. McDonald (5<sup>th</sup> Circuit/TX Bar) and Crowe (9<sup>th</sup> Circuit/OR Bar) are two major cases. WA Supreme Court has asked the BOG to study the structure and answer three main questions:**

- Does current federal litigation regarding the constitutionality of integrated bars require the WSBA to make a structure change?
- Even if the WSBA does not have to alter its structure now, what is the contingency plan if the U.S. Supreme Court does issue a ruling that forces a change?
- Litigation aside, what is the ideal structure for the WSBA to accomplish its mission?

# WHAT IS THE STATUS OF THE ONGOING LITIGATION?

- The U.S. Supreme Court on April 4, 2022, [denied certiorari](#) for three cases challenging the integrated-bar structure: [Taylor v. Heath](#) (Michigan), [Schell v. Darby](#) (Oklahoma), and [McDonald v. Borunda Firth](#) (Texas).
- McDonald out of the Fifth Circuit found integrated bars to be constitutional so long as their activities are germane. Fifth Circuit found commenting on legislation that isn't related to the functioning of the courts or how lawyers practice law to be non-germane so TX has to stop that activity.
- Crowe (Oregon case from the 9<sup>th</sup> Circuit) was remanded back with instructions for the lower court to take up the constitutional question of freedom of association.



## WHERE ARE WE NOW?

- The Board has had four meetings to date.
- Representatives from four sections spoke to the Board in March (Corporate Counsel, Family Law, Solo Small Practice and World Peace Through Law). All four advocated to keep the integrated bar structure.
- The April ETHOS meeting was devoted to hearing feedback from stakeholders. Additional section representatives provided feedback at that meeting (Admin Law, Criminal Law, International Practice Litigation, Business Law-letter).
- The ED, President and several BOG members attended the Spring Section Leaders Meeting and provided an update on ETHOS.
- To date, no section who has provided feedback has requested to bifurcate.
- In the meeting on May 21<sup>st</sup> the Board received a 90 minute presentation on the fiscal impact of several scenarios ranging from keeping the bar integrated as is to bifurcating out regulatory functions and placing them under the court. Under each bifurcation model, it would cost a member at least \$200 more to join a section as compared to the cost to join in the integrated model (slide presentation is included in your materials).

## WHERE ARE WE HEADED?

- The Board has two more meetings scheduled (July 23<sup>rd</sup> and August 13<sup>th</sup>).
- The July meeting is devoted to receiving stakeholder feedback.
- The Board will be surveying the members utilizing a professional company to ensure it is random and objective.
- It is important to know that no decisions have been made by the Board at this point.
- The Board is on schedule to provide a recommendation to the court by the end of September.

## WHAT CAN YOU DO?

- Provide feedback to the Board in one of three ways:
  - Attend a Member Engagement Council meeting to provide feedback (that council meets the first Thursday of each month)
  - Provide feedback to the BOG through a letter. You can send to me and I will make sure it is included in the meeting materials for the next ETHOS meeting
  - Attend an ETHOS meeting and provide feedback. The July meeting is dedicated to receiving stakeholder feedback.

**QUESTIONS?**