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WASHINGTON STATE BAR ASSOCIATION • APRIL/MAY 2023

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YOU CAN STILL VOTE!
Courthouse Challenge

Download a bracket at https://wabarnews.org/county-courthouse-challenge and email it to wabarnews@wsba.org. The winner will be announced in the June 2023 issue.

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Editor’s Note

Lending Your Bar a Helping Hand

As you can tell from the cover and the following pages, the goal of this issue is to encourage you to volunteer for the WSBA, or at the very least to inform you that volunteers play a significant role in much of what the WSBA does on a daily basis.

For example, although the Bar News publication is fact checked, edited, and designed by a small group of internal staff, the magazine is also heavily influenced by a group of WSBA members called the Editorial Advisory Committee (EAC). These volunteers write (see EAC member Allison Foreman’s excellent article on page 34), recruit others to write, develop story ideas, and guide discussions about policy shifts (such as any changes to our letters to the editor policy). The names of the current EAC members are listed on page 6. Your name could be listed there, too.

There are numerous other WSBA volunteer opportunities. See page 38 for a deeper look at the work of the Council on Public Defense, page 44 for five other groups looking for members, and page 28 to read about why a handful of people choose to regularly give back to the WSBA.

Also in this issue: an ethics column on jury research before and after a verdict (page 16); a Write to Counsel column on how to create more engaging digital content (page 20); and a Beyond the Bar Number feature on Robert Chang, a Seattle University School of Law professor and the founder and executive director of the Fred T. Korematsu Center for Law and Equality (page 64).
PCVA WELCOMES ITS NEWEST ASSOCIATES

Alyssa R. Nevala
Associate, Seattle Office

“Sexual abuse causes unique trauma for survivors. I’m honored to be part of abuse survivors’ healing process by fighting for justice. At PCVA, I help uncover the truth and secrets hidden by institutions for decades and hold the wrongdoers accountable.”

Mariah E. Ogden
Associate, Seattle Office

“Working at PCVA allows me to zealously advocate on behalf of our deserving clients and hold perpetrators accountable for their actions. I look forward to helping our clients find and amplify their voices so they can get the justice they deserve.”

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LET US HEAR FROM YOU!

We welcome letters to the editor on issues presented in the magazine. Email letters to wabarnews@wsba.org. All opinions, statements, and conclusions expressed in letters to the editor represent the views of the respective authors and do not necessarily carry the endorsement of the WSBA or its Board of Governors. Publication of letters to the editor is not to be deemed an endorsement of the opinions, statements, and conclusions expressed by the author(s).

Letters to the editor published in Bar News must respond to content presented in the magazine and also comply with Washington General Rule 12.2 and Keller v. State Bar of California, 496 U.S. 1 (1990). * Bar News may limit the number of letters published based on available space in a particular issue and, if many letters are received in response to a specific piece in the magazine, may select letters that provide differing viewpoints to publish. Bar News does not publish anonymous letters or more than one letter from the same contributor per issue. All letters are subject to editing for length, clarity, civility, and grammatical accuracy.

Bar News

Washington State Bar News Submission Guidelines
Washington State Bar News relies on submissions from WSBA members and members of the public that are of interest to readers. Articles should not have been submitted to any other publications and become the property of the WSBA. Articles typically run 1,000-2,500 words. Citations should be incorporated into the body of the article and be minimal. Please include a brief author’s biography, with contact info, at the end of the article. High-resolution graphics and photographs (preferably 1 MB in size) are requested. Authors should provide a high-resolution digital photo of themselves with their submission. Send articles to wabarnews@wsba.org. The editor reserves the right to edit articles as deemed appropriate. The editorial team may work with the writer, and the editor may provide additional proofs to the author for review.

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To purchase Display Ads, Announcements, and Marketplace of Professionals listings, or to receive a media kit, contact Ronnie Jacko, LLM, at x002; phone 303-445-2234. Classifieds: Advance payment required. See classified pages for rates, submission guidelines, and payment information. Washington State Bar News is published nine times a year with a current circulation of approximately 40,000.

RPC 8.4 Unconstitutional?

I read Amanda Stephen’s article on eliminating bias in legal advocacy, though I believe she substitutes her bias for what she claims is the bias of others. She argues that lawyers can be disciplined for violations of her proposed bias code. This violates the constitutional right of lawyers to freedom of speech, and it may violate the due process rights of criminal defendants, and any civil party as well, to legal proceedings in which their lawyers are not shackled by a speech code.

The current Rules of Professional Conduct [RPC] provide the basis for her argument that lawyers can be punished for a wide range of speech. RPC 8.4 expansively forbids a lawyer from saying anything that might be interpreted as manifesting bias or prejudice. Rule 3.4 expansively forbids lawyers from saying anything that she or he does not reasonably believe to be relevant. To the author anything that doesn’t comply with her bias code, which includes words like “carceral system” instead of “criminal justice system,” is a basis for a bar punishment.

I have argued for about 40 years, starting with Seattle-King County bar advisory rules, that...
Rule 8.4 is unconstitutional. Criminal lawyers protect the lives of the accused and prosecutors protect the public from those who should be punished. Civil lawyers protect the property and lives of people and institutions from all manner of harm. They are entitled to the full range of protection of the right to freedom of speech. Lawyers do not waive their right to advocate forcefully by carrying a bar card. Probably there are no or few cases because lawyers naturally fear to challenge rules enacted by the judges they practice before, directly or indirectly.

Ms. Stephen proposes an amorphous expansion of RPC 8.4. This is more reason why the Supreme Court should remove RPC 8.4 from the Rules of Professional Conduct.

Roger Ley
Gresham, OR

Penning Passionate Letters Appreciated

I was disappointed in the drastic shift in tone of the letters to the editor segment of the February 2023 [issue] from the previous edition. After the high bar was set in dramatic fashion of passionate letters in the Dec. 2022/Jan. 2023 edition (and the letters leading up to it), I nearly changed my first section review from Discipline Notices to Inbox. I hope future letters and segments can match that intensity.

Neil Weiss
Everett
A TWO-TIERED CHESS GAME

The causation requirement in a legal malpractice action requires proving the merits of the underlying matter — the case within the case — which may be more complex than the professional negligence claim itself.

We have the knowledge and the experience to make the right moves and we would appreciate the opportunity to help you and your client.
Washington's 2023 Legislative Session: What's in Store at the WSBA

The 2023 session of the Washington State Legislature began with lawmakers returning to Olympia for the first in-person session in two years. Legislators will consider a variety of issues this year. However, a primary focus of the 120-day “long” session is to pass a state budget [...]

Timing is Everything: Motion to Withdraw With Pending Summary Judgment Denied

A recent decision by the federal court in Seattle underscored that when attempting to withdraw from litigation, timing can be critical. In 3M Company v. AIME LLC, 2023 WL 1863517 (W.D. Wash., Feb. 9, 2023) (unpublished), the defendants' out-of-state lead attorney [...]
In recognition of her work to give a voice to the formerly incarcerated through the founding of the Civil Survival Project, and the creation of the Full Circle Scholarship for students whose life has been impacted by the criminal justice system.

Please consider a gift in honor of Ms. DuBois or any of the other inspiring 2022 APEX Award Recipients at wsba.org/foundation.
A NOTE FROM THE WSBA EXECUTIVE DIRECTOR

Three Cheers for Volunteers!

It was my mom who instilled in me the importance of volunteerism to strengthen and build community. Although her full-time job was running a household and raising three kids, she was always involved in our community. What that looked like to my two brothers and me, at the time, was that she was ALWAYS on the phone and we were NOT allowed to interrupt. Instead, we would stand at her office door making silent but urgent faces to no avail. She is still passionate about building community and will tell anyone willing to listen (and maybe some that aren’t so willing) that we need universal child care so that parents can meaningfully contribute their talents toward community leadership. Perhaps our urgent faces were impactful after all.

Her words and actions inspired my own volunteerism and ultimately led to a career in public service as an immigration attorney for Catholic Community Services and later as the executive director for LAW Advocates, a volunteer lawyer program in Whatcom County. And her example still drives me today. Finding a way to meaningfully give back to your community—whether professional, local, or passion-based—is deeply fulfilling, and it’s one way I feel most connected to what matters in life. But for many, including myself, finding time to volunteer has become more difficult since the onset of the pandemic. According to a comprehensive AmeriCorps/U.S. Census survey, the rate of more formal volunteerism (through an organization) dropped 7 percentage points from 2019 to 2021.¹ The results of this every-two-year survey are not expected to improve when analyzed in 2023.

The state Bar is experiencing both sides of this volunteerism tug-of-war. Volunteers are the backbone of our work, and they, by and large, express satisfaction from their ability to shape and guide the profession through their work with the WSBA. Simultaneously, engaging new volunteers and filling our many volunteer roles has become a heavier lift in recent years.

In response, we are attempting to make it as easy as possible for members to learn about the many, many ways to volunteer, encompassing different time commitments, skills, and interests. This issue of Bar News is one way we are doing that. We are also seeking to hear from all members about why they do or do not volunteer with the state Bar. In April, our ongoing member engagement survey² will focus specifically on this issue. If you are invited to participate (our professional survey company chooses the sample randomly), please do! The resulting data will be used to make important resource and program decisions.

I also want to echo a sentiment shared recently by several justices and WSBA leaders during our annual Board of Governors meeting with the Washington Supreme Court in March: There are so many ways for you to volunteer and serve your profession and community. It may be that your limited time and in-demand skills are most needed right now with your kid’s football team, with your county bar, at your homeowners’ association, or with your church. However you choose to give back, I offer my sincerest gratitude.

But do please keep the WSBA in your volunteering periphery. These magazine pages are filled with stories of just a few of our volunteers and how they are making a difference for all of us in the legal profession. To add to that information, I offer my own “Late Night with Terra Top 10 List”—Why a WSBA Volunteer Gig Might Be for You:

1. Get to know the amazing, magical folks who work the front desk at the WSBA (there is free candy, too).
2. Memorize the entire Ingallina’s Box Lunch menu.
3. Learn everything you ever wanted to know—and a bunch a stuff you didn’t want to know—about the inner workings of rulemaking.
4. Get really familiar with acronyms—POLB? BOBE? STAR? DART? No, these are not sci-fi character names; these are WSBA jargon!
5. Acquire some great additions to your résumé.
6. Grow your professional network.
7. Nurture skills and talents you don’t get to use every day.
8. Challenge your way of thinking and broaden your perspective.
9. Make lifelong friends, mentors, and sponsors.
10. Help bring about a profession and legal system that instills public confidence.

My own personal philosophy about contributing to community—whether through time or treasure—is this: give what you can give joyfully; accept what others give graciously. Wherever you choose to give, go forth in joy.

NOTES
1. www.americorps.gov/about/our-impact/volunteering-civic-life#:~:text=Formal%20Volunteering,-Formal%20volunteering%20involves&text=Ar%20%20Estimated%202023%2020 percent%20of%20economic%20value%20of%20%24122.9%20billion.
2. www.wsba.org/survey.

Terra Nevitt
WSBA Executive Director
Terra can be reached at terran@wsba.org or 206-727-8282.
President’s Corner

The Law Clerk Program—A Great Way to Promote Access to Justice and Give Back to the Profession

I’m dedicating my column this month to providing awareness, information, and encouragement about the WSBA’s invaluable Law Clerk Program under Admission and Practice Rule (APR) 6. “Reading the law” is a very old tradition in our country and in our state that actually predates both law schools and bar exams.

For close to 100 years, the WSBA has administered this unique path for participants to learn the law from a tutor. There are currently 185 former law clerks licensed to practice law in Washington. I am very excited that my successor as the District 4 governor, Mary M. Rathbone, is an APR 6 Law Clerk Program graduate—the first, I believe, to serve on the Board of Governors. I am in my fourth and final year of serving as a law clerk tutor and previously have served as a Board of Governors liaison to the Law Clerk Board for the past five years. I’d like to share some of what I’ve learned from these experiences.

PROGRAM OVERVIEW
Established by the Washington Supreme Court under APR 6, the Law Clerk Program is an alternative to traditional law school. The four-year program is designed to provide practical experience and education to the participant through a combination of working in a law firm (or for an approved law-related employer) and studying under the direct supervision of an experienced lawyer or judicial officer who is an active member in good standing with the WSBA. Those who complete the program are eligible to sit for the Washington lawyer bar exam side-by-side with those who have graduated from an ABA-accredited law school.

The Law Clerk Program is overseen by a board of volunteers (the Law Clerk Board) appointed by the Board of Governors. These dedicated volunteers, along with the individual WSBA members who serve as tutors to the participants, work collaboratively with WSBA staff to make this program successful. The Law Clerk Board assigns a board liaison to each participant; this liaison reviews monthly submissions of tests and book reports to ensure that the tutor is administering monthly testing to the law clerk that demonstrates the participant has an understanding of the subject matter and adequately prepares the participant for taking the bar exam.

Although designed to be completed in four years, the Law Clerk Program offers flexibility: Participants may take up to six years to complete it, which allows for absences due to health issues or family circumstances.

PROGRAM REQUIREMENTS
To qualify to participate in the Law Clerk Program, candidates must first demonstrate good moral character and fitness, as defined in APR 20, something that most law students are not required to do until they apply to sit for the bar exam. The Law Clerk Program applicant must have a bachelor’s degree, be of good moral character, and show that they currently have at least 32 hours per week of paid employment in Washington state with a lawyer or judge who has at least 10 years of active legal experience and is in good standing with an active license status. This WSBA member employer must agree to serve as the applicant’s primary tutor. The program also allows someone who meets these qualifications but is not the employer of the law clerk applicant to serve as the primary tutor, if the employer consents and agrees that this can be done without a conflict of interest.

As noted, employment is a requirement to apply for the program, and applicants must have already secured qualifying employment with a tutor before applying; employment that is contingent upon acceptance into the Law Clerk Program is not acceptable. At this time, neither the WSBA nor the Law Clerk Board assists with finding employers/tutors.

PROGRAM COSTS
The APR 6 Law Clerk Program offers a unique and very affordable way to become an attorney without incurring the massive student loan debt that plagues the majority of traditional law school graduates. While
In a nutshell, the Law Clerk Program costs members zero and produces qualified and competent attorneys. Attending a traditional three-year law school can cost approximately $200,000, an APR 6 student pays $100 for an application fee to the WSBA; upon enrollment in the Law Clerk Program, the fee is $2,000 per year. These tuition payments go directly toward defraying the costs the WSBA incurs in administering the program. The end result— at least during the six-plus years I’ve served on the Board of Governors—has been that the program has been cost-neutral every year and has even produced a small amount of revenue. In a nutshell, the Law Clerk Program costs members zero and produces qualified and competent attorneys.

There is another benefit to the public at large from the low cost and lack of student loan debt associated with the Law Clerk Program. In speaking with former law clerks over the years, I believe it is fair to say that most are in a much better position to be able to immediately do pro bono legal work and/or volunteer for the Moderate Means Program to help serve the public.

Equally important, given that participants work full time while going through the program, is that it opens up an important pathway for those who, for whatever reason, simply could not go to a traditional law school because of parenting obligations or other commitments. This program helps participants achieve their dream of becoming an attorney. We should be proud that our Bar administers this program, which really should be seen as the fourth “law school” in our state.

IMPACT ON UNDERSERVED RURAL PARTS OF THE STATE

As you may know, the WSBA has created the STAR (Small Town and Rural) Committee to tackle the real and significant problem that many rural regions of our state simply do not have enough, or in some instances any, active members living and practicing in them. It is my strong opinion that the APR 6 Law Clerk Program can greatly assist in addressing this issue. As just one example of how it can do this, the program allows a solo practitioner in a rural area who is thinking of retiring in a few years to take on a law clerk under APR 6, teach them the law, and then ultimately transition the law practice to them when they become licensed to practice law.

I personally believe that expansion of this program into rural regions and small towns in Washington is a fantastic way to increase access to justice in these regions, as community members who already live in these regions and are working in the legal field as non-attorneys ultimately become active members of the Bar who can help meet the needs of residents there.

THE PROGRAM ISN’T FOR EVERYONE

The Law Clerk Program requires participants to be extremely self-disciplined and self-motivated in order to learn the law individually as opposed to in a classroom. Some say it is harder than law school, with success versus failure often coming down to the quality of the tutor who helps teach the law and administers the tests.

For some, law school is a better pathway to learn the law. For others, however, the APR 6 Law Clerk Program provides a way to achieve the goal and dream of becoming an attorney that would not be possible any other way.

CONCLUSION

I have been and continue to be very supportive and proud of the APR 6 Law Clerk Program. This is a program that has produced and continues to produce many outstanding and competent attorneys in our state. In a concrete show of support for the program, I encourage you to consider serving as a law clerk tutor and/or an associate tutor.

It continues to be a tremendous honor to serve as your FY 23 WSBA president.

NOTE

1. Some well-known attorneys who did not attend or finish law school include Abraham Lincoln, John Jay, John Marshall, and Benjamin Cardozo.
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Board of Governors Provides Guidance for Staff in Budget Prep

The Washington State Bar Association’s FY 24 budget retreat is now history. The event, which took place on March 3 in Olympia, had the full complement of governors in attendance, all in person but for two who were traveling and participated via Zoom. The goal of the retreat, as I stated in my last column, was to provide guidance to WSBA staff who are tasked with preparing key areas of the FY 24 budget and planning for future organizational needs.

The majority of governors in attendance expressed that the exercise could be challenging at times; ultimately, however, most found it rewarding as well. The retreat kicked off with an acknowledgement of the fact that nearly 48 percent of the WSBA budget goes toward Supreme Court-mandated programs and services. These services enable the Bar to carry out its regulatory roles and to function as a champion of justice in Washington state.

Questions that came up during the engaging and stimulating intellectual debates on WSBA budgets and futures priorities included what amounts (if any) should be allocated to License Fee Stability, Special Projects/Innovation, and Facilities reserve funds? The Board discussed the organization’s needs for FY 24 and the varying priorities for each of the reserve funds. While the Board considers allocation of funds to these reserves a significant priority, the consensus was that the Board wants to have a better idea of spending for the FY 24 budget and future needs before making decisions about reserves.

A top priority identified by a majority of the Board is ensuring that the WSBA has sufficient funds to support its facilities needs; immediately following priorities include license fee stability, and additional funding to programs and services for members. The Board confirmed that the five goals set out in its January meeting remain top priorities. The Board also discussed possible additional budget items for FY 24, including potential recommendations from a variety of councils, committees, and task forces such as the Long Range Strategic Planning Council and the Small Town And Rural Committee.

Perhaps the most consequential issue discussed at the retreat was the Board’s intent for license fees through 2026. This issue generated spirited debate. The general feedback gathered from the discussion is that the Board is not willing to make such a fundamental decision until the fiscal impact and needs for future WSBA facilities are determined.

In the end, the exercise enabled WSBA staff to identify what the Board of Governors considers to be top priorities, which provides them with guidance on how to move forward with preparing the FY 24 budget.

As promised last month, I want to provide answers to your questions and comments on past Treasurer’s Reports:

**Q. Why is the WSBA’s budgetary cycle not in alignment with the end of license fees collection?**
**A.** The membership/license fee year follows the calendar year (January-December), while the WSBA budget follows a fiscal year (October-September); that is consistent with the Board of Governors year.

**Q. Who appoints members of the Budget & Audit Committee?**
**A.** The WSBA president, in consultation with the Board of Governors.

**Q. Why did the Board set goals in January 2023 when a new set of governors will assume office in September 2023?**
**A.** This is the first time in recent memory that the Board has set goals, and efforts are underway to align future goal-setting with changes in administration.

**Q. When will the Board make a decision on 2026 license fees?**
**A.** The Board is scheduled to make a recommendation for the 2025 license fees at its September 2023 meeting. While the Board can choose to also set the 2026 fees at that time, it is not required. A recommendation for 2026 fees would be needed in September of 2024.

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Francis A. Adewale
WSBA Treasurer
Francis Adewale can be reached at francisadewalebog@gmail.com.

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LEARN MORE
For a summary of the WSBA’s financials for the first quarter of FY 2023 (Oct.–Dec. 2022), see page 712 of the materials from the Board of Governors March meeting at www.wsba.org/about-wsba/who-we-are/board-of-governors/board-meeting-minutes.
RPC 3.5:

Jury Research Before and After the Verdict

BY MARK J. FUCILE

Lawyers usually focus on jury research at two distinct points in a trial. The first is at the outset to assist with voir dire and jury selection. The second is after the verdict to understand the factors that led to the jury’s decision. The former often involves web and related social media research of prospective jurors. The latter more frequently involves direct contact with jurors following their service. In this column, we’ll look at both through the prism of RPC 3.5, which governs communication with jurors.

Before we do, three qualifiers are in order.

First, although we will focus on lawyers, in these contexts lawyers often work with consultants, investigators, and other non-lawyer staff. It is important to remember that under RPCs 5.3 and 8.4(a), lawyers are generally responsible for the conduct of non-lawyers they supervise or direct. Careful lawyers, therefore, will make sure that the non-lawyers with whom they are working understand the constraints that apply to contacts with jurors.

Second, this is an area that is also heavily regulated by court rules. In fact, RPC 3.5(b), which addresses communications with jurors during a proceeding, and RPC 3.5(c), which does the same for communications after jurors have been discharged, are both expressly predicated on other “law or court order.” Accordingly, lawyers should also closely examine any applicable statutes, court rules, or specific orders governing the case concerned.

Third, once a jury is seated and a trial is underway, lawyers may be present with jurors in a variety of circumstances outside the courtroom such as on an elevator during a lunch break. Judges will often instruct jurors that the lawyers are not being rude in these situations by not conversing but instead are simply following the court’s rules. Even if a judge has not given a cautionary instruction, prudent lawyers will generally nod politely and say little beyond a common pleasantry to avoid the implication that they engaged in a prohibited communication that might trigger a mistrial, sanctions, regulatory discipline, or some combination of these.
While perhaps not yet within the realm of standard of care, internet jury research has nonetheless become common practice.

Some information about jurors may be available from third-party sources such as an interview posted on a local media outlet’s website. Other information, however, may be on a platform controlled primarily by the juror such as a social media site. In that latter instance, the critical question under RPC 3.5(b) is whether access to the site involves a “communication” with a prospective (or selected) juror:

A lawyer shall not:

... (b) communicate ex parte with [a prospective or selected juror] ... during the proceeding unless authorized to do so by law or court order.[4]

ABA Formal Opinion 466 (2014) analyzes this issue and compiles authorities nationally on this point.[5] The opinion is available on the ABA website.[6]

Assuming the court has not entered an order prohibiting internet research for the case involved,[7] ABA Formal Opinion 466 finds that simply viewing publicly available information that a prospective juror has posted on a web or social media site does not constitute a “communication” under ABA Model Rule 3.5(b):

Passive review of a juror’s website or ... [social media] ..., that is available without making an access request, and of which the juror is unaware, does not violate Rule 3.5(b). In the world outside of the Internet, a lawyer or another, acting on the lawyer’s behalf, would not be
engaging in an improper ex parte contact with a prospective juror by driving down the street where the prospective juror lives to observe the environs in order to glean publicly available information that could inform the lawyer’s jury-selection decisions. The mere act of observing that which is open to the public would not constitute a communicative act that violates Rule 3.5(b).\textsuperscript{12}

By contrast, ABA Formal Opinion 466 concludes that contacting a prospective juror with an access request is a prohibited communication:

It is the view of the Committee that a lawyer may not personally, or through another, send an access request to a juror. An access request is an active review of the juror’s electronic social media by the lawyer and is a communication to a juror asking the juror for information that the juror has not made public. This would be the type of ex parte communication prohibited by Model Rule 3.5(b). This would be akin to driving down the juror’s street, stopping the car, getting out, and asking the juror for permission to look inside the juror’s house because the lawyer cannot see enough when just driving past.\textsuperscript{13}

**POST-TRIAL INTERVIEWS**

After a jury has rendered its verdict, lawyers may have a variety of reasons to contact jurors once they are discharged. In some instances, lawyers may wish to investigate

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Internet research can provide a uniquely revealing window on prospective jurors; interviewing jurors after a trial can be equally revealing.

suspected juror misconduct that impacted the outcome of the trial. In others, they are interested in learning “what worked” and “what didn’t” to incorporate into future trial planning—especially with repetitive litigation such as employment or product liability cases.

RPC 3.5(c) addresses post-trial communication with jurors:

A lawyer shall not:

   (c) communicate with a juror or prospective juror after discharge of the jury if:

   (1) the communication is prohibited by law or court order;

   (2) the juror has made known to the lawyer a desire not to communicate; or

   (3) the communication involves misrepresentation, coercion, duress or harassment.[1]

Washington’s state and federal courts take different approaches to contacting jurors post-trial.

Subject to RPC 3.5(c), post-trial communications with jurors are generally permitted in state court. In fact, Washington Pattern Civil Jury Instruction 6.20 specifically advises jurors that they may be contacted by the attorneys involved once they have been discharged: “Having completed your service on this trial, you may now discuss this case and your jury service with others, including the attorneys involved in this case.” At the same time, state trial courts have the discretion to limit post-trial contact if the circumstances warrant.[2]

Both Washington federal districts, by contrast, have local rules prohibiting counsel from contacting or interviewing jurors post-trial without the specific permission of the court in the case concerned.[3] As noted above, although RPC 3.5(c) generally accommodates post-trial contact, communication is not allowed when prohibited “by law or court order.”[4]

SUMMING UP

In today’s electronic environment, internet research can provide a uniquely revealing window on prospective jurors. Interviewing jurors after a trial can be equally revealing. With both, however, lawyers need to pay careful attention to the constraints imposed by RPC 3.5 and any associated court rules or orders.[5]

NOTES


2. See, e.g., WPI 4.44.280 (“Admonitions to jurors”).


6. Id. at 604-05.

7. Id. at 605-10. See also Anthony M. LaPinta, “Ethical Considerations for Attorneys Researching Jurors on the Internet,” 9 J. Race, Gender, and Ethnicity 7-10 (2020) (surveying practical benefits for jury selection by comparing juror answers in voir dire with internet research on the same prospective juror).


9. For another very accessible and comprehensive survey of this issue, see generally Jan L. Jacobowitz and John G. Browning, Legal Ethics and Social Media: A Practitioner’s Handbook, ch. 6 (2d ed. 2022) (”Juror, Juror on the (Social Media) Wall, Who’s the Fairest of Them All?”).

10. ABA Formal Opinion 466 also addresses situations where a lawyer through internet jury research discovers juror misconduct during trial. The opinion finds that if the information discovered involves criminal or fraudulent misconduct by the juror regarding the proceeding, the lawyer has a duty under ABA Model Rule 3.3(b) to take “reasonable remedial measures” that may include notifying the judge. Id. at 6-9.


13. Id. On a related point, ABA Formal Opinion 466 concludes (at 5) that an auto-generated notice to a prospective juror that someone who shares the same platform has viewed the juror’s content does not constitute a “communication” under ABA Model Rule 3.5(b). The opinion notes, however, that authorities around the country have taken different positions on this issue and that, in any event, such notices may present a practical disincentive.


16. See generally CR 59 (discussing motions for new trials in civil cases); CrR 7.5 (same in criminal cases); see, e.g., State v. Orozco, 2021 WL 1035319 at *6 (Wash. Ct. App., Mar. 18, 2021) (unpublished) (“[A]s long as it complied with RPC 3.5(c), the defense could task its investigator with talking to jurors after the trial[.]”).


18. See Western District LCR 47(d); Eastern District LCivR 48(d).
The right blog post, tweet, or newsletter can bring in new clients, expand the community’s knowledge of a particular issue, or—in rare cases—spark change. Because these digital materials can be powerful tools for legal and social change, many practitioners are drafting them in addition to the motions and briefs of everyday practice. But these documents—unlike static practice documents—are interactive. How, then, should you approach this genre of writing? First, carefully consider your post’s intended purpose and audience, as these factors will dictate your format choice and post length. Then adapt your style for the digital world, as this is where your blogs, tweets, or newsletters will be found, consumed, and shared. Here are six recommendations to make it happen.

1. PURPOSE AND AUDIENCE GUIDE THE WAY

Digital legal writing can serve a variety of purposes such as marketing, education, or advocacy. Further, your audience reach and readers’ expectations fluctuate across digital legal documents. Therefore, before putting pen to paper, or (perhaps more aptly) reading your thumbs, ask yourself about your intended purpose, your target audience, and your readers’ expectations.

Advertise, Educate, or Empower. First, assess your writing goal. What kind of document are you trying to produce? Marketing materials alert potential clients to your firm’s capabilities and your subject-matter expertise and solidify your reputation in
SIDEBAR

Digital Content Calculator

<table>
<thead>
<tr>
<th>FORMAT</th>
<th>AUDIENCE</th>
<th>MAIN PURPOSE</th>
<th>LENGTH</th>
</tr>
</thead>
<tbody>
<tr>
<td>Newsletter</td>
<td>&gt; Client list</td>
<td>&gt; Marketing</td>
<td>1,000-1,200 words³</td>
</tr>
<tr>
<td></td>
<td>&gt; Subscribers</td>
<td>&gt; Education</td>
<td></td>
</tr>
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<td>&gt; Subscribers</td>
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<td>-600 words²</td>
</tr>
<tr>
<td></td>
<td>&gt; Website viewers</td>
<td>&gt; Education</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>&gt; Advocacy</td>
<td></td>
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<tr>
<td>Press Releases</td>
<td>&gt; Client list</td>
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<td>300-400 words³</td>
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<td></td>
<td>&gt; Website viewers</td>
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<td>&gt; Followers</td>
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</tr>
<tr>
<td></td>
<td>&gt; All Users</td>
<td>&gt; Marketing</td>
<td></td>
</tr>
</tbody>
</table>

NOTES

the community. Educational materials inform current clients or affected industries of potential changes in the law. And advocacy materials serve as a call to arms on important issues impacting your community and your practice.

May I Have Your Attention Please? After identifying your post’s purpose, think about your goal audience. Digital legal documents tend to reach one of three different groups: current clients, potential clients, or the community-at-large. Newsletters and press releases tend to reach current clients and email or website subscribers, while blogs and tweets reach the public-at-large in addition to these other groups. Perhaps because of these differences in reach, newsletters and press releases tend to be used for marketing and educational purposes, whereas blogs and tweets are used for all three purposes.

Short, Shorter, and Shortest. Once you have determined your format, consider your reader’s expectations. Uniformly, digital documents tend to be much shorter than traditional practice documents. This is not shocking; most digital documents are consumed via phone. Recommended word count varies, but digital materials generally decrease in length as follows: newsletters, blogs, press releases, tweets.

1. Think Visually
Bullet points, headings, infographics, and lists: each can serve a powerful role in de-densifying your content. Even an image can reduce word count and make your post more reader-friendly, so long as it’s relevant. Remember, most digital readers are skimming. By breaking up your text with these options, you invite the skimmer to pause, slow down, and read closely.

Further, remember the interactive nature of these documents. Today’s article-skimmer is tomorrow’s article-forwarder. By adding in lists and headings to serve as guideposts, you’ve given them the gist of your article, thus increasing the likelihood they will forward your post on to your goal audience. Don’t believe me? Most people do not read an article before sharing it.

2. Be Succinct
Writing crisply is essential to creating powerful digital content. Time after time, studies have confirmed what we instinctively know: TL;DR. Digital readers approach all content with a filter. In fact, “most people simply scan most content most of the time.” And digital readers only dedicate an average of 26 seconds of time to any digital content. Therefore, make sure you use that time wisely.
- Avoid long quotes to case law or statutes.
- Paraphrase when possible.
- Be mindful of your format and your reader’s anticipated word count.
- Readers respect a writer who respects a reader’s time.
- Short sentences create movement. Plus, they’re engaging.
- To cite or not to cite: that is a question.

Jaclyn C. Celebrezze is a visiting lecturer at the University of Washington School of Law, where she teaches first-year legal analysis, research, and writing.

3. Word Choice Matters
As always, legalese and jargon are not welcome in your posts. Both overly complicate a good explanation. But in the digital legal writing sphere, word choice is impactful for another reason: search engine optimization (SEO). Online, half the battle is connecting the reader to relevant content. As an author, you want to make your content easy to find.

Before drafting your latest blog, be sure to know how your goal audience refers to your topic. For example, an immigration attorney blogging about “permanent resident status” won’t reach the same audience that the immigration attorney blogging about “green cards” will. Once you’ve identified your topic and context, brainstorm terms and phrases, just as you would in preparation for legal research. If you’re stumped, consider using a keyword search tool. It will aid you in connecting your knowledge with your intended audience’s phrasing.

Word choice isn’t just relevant to the body and title of your post—it’s a vital component of hashtags as well. Hashtags are how you categorize and publicize the topic of your blogs and tweets. Consequently, hashtag word choice can be the difference between a post going viral and a post falling flat. In digital legal writing, anything worth writing is worth amplifying. Be sure your
In the words of Jim VandeHei, Mike Allen, and Roy Schwartz, the authors of *Smart Brevity*, “[y]ou would never cook a gourmet meal and serve it in a dog bowl. That’s basically what you’re doing when you try to get someone to pay attention to a well-crafted thought but lose or confuse them with your teaser.” Regardless of the digital format you choose, your title will serve a vital role in drawing your reader in and keeping them focused on your message. Think of the title as a cross between a point heading and a news lead: substance with a little sizzle.

Sounds great. So, how can you make that happen? Try to limit yourself to 6-10 words. And try to make them short words—one or two syllables. Remember you are drawing your reader in; trust your post to do the work of expanding and explaining.

Want another easy way to sell your reader on your post or newsletter? Point out that it’s a short ask. Add a subtitle to your post showing word count and estimated read time à la Axios. Calculate your read time based on the average of 256 words per minute.

Finally, a word on content. While you may want to share a significant win with potential clients and your legal industry, take a cautious approach when drafting. The ABA has issued a formal opinion advising attorneys on blogging and confidentiality. Be sure to read Rita Aquilio’s *Confidentiality Obligations for Blogging Lawyers*. The article walks you through the ABA Formal Opinion and the model rules advising you on informed consent and further drafting considerations. Specifically, the article offers excellent insight on the dangers of using hypotheticals in your posts, as well as potentially identifying information, even if that information is publicly available.

Digital legal writing is a powerful tool to have in your firm’s toolbox. It’s dynamic, interactive, and has tremendous power to expand reach. But to maximize your writing’s impact, your posts must anticipate how digital readers will engage with your text. You must make your point and make it quickly: your reader’s attention span is short and your word count is even shorter. Use these six strategies to ensure your content will cut through the digital noise and be seen—and most importantly—heard.
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Douglas S. Oles, Esq.  Judge Jeffrey Ramsdell (Ret.)
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Building Workplace Safety Through Cultivating Bravery

BY THE WSBA EQUITY AND JUSTICE TEAM

Many workplaces tout themselves as safe spaces that do not tolerate hate and strive to create places of comfort free from conflict and criticism. Building safety in your workplace is important. However, organizations that falsely equate safety with comfort allow people to retreat from conversations about racism and oppression, which perpetuates inequities.

Talking about racism and oppression is deeply uncomfortable. Listening to news stories about systemic brutality against marginalized groups or hearing about experiences of bias from clients or staff activates a fight-flight-freeze response in all of us. These responses may come from feelings of guilt or defensiveness in those who have never experienced such brutality or bias, or grief and trauma in those who have. All those feelings are normal and nothing to be ashamed of—but everyone suffers when we’re afraid to face them.

Staff or volunteers who notice instances of interpersonal or institutional bias may feel unequipped and afraid to acknowledge and interrupt them for fear of creating conflict. Leaders and managers may mistakenly label as combative and issue-causing those clients, staff, or volunteers who draw attention to policies or practices that cause harm or exclusion, instead of addressing the real source of their discomfort—acknowledging and exploring the possibility that they or the organization may unintentionally be perpetuating racism and oppression. All of this creates an administrative racism cycle where people feel uncomfortable and unequipped to talk about racism and oppression and refuse to name it, while it’s showing up and actively harming staff, volunteers, and clients.

In order to interrupt this cycle, organizations must teach staff and volunteers to prepare for and navigate that discomfort, while also facilitating brave spaces, or intentional spaces where group members hold each other accountable to individual learning, allow space for diversity of thought instead of forced assimilation and agreeableness, and create generative conflict—all of which bring members closer together while also interrupting interpersonal and organizational bias.

Only then can we move toward true safety for all.

Organizations that falsely equate safety with comfort allow people to retreat from conversations about racism and oppression, which perpetuates inequities.
In the following pages, you can learn about the important, varied, and integral work carried out by some of the people and groups that make up the WSBA’s volunteer community.
BY PARIS A. ERIKSEN

The goal of this volunteer-dedicated issue of Bar News is threefold: (1) to educate members about WSBA volunteerism and encourage participation, (2) to showcase specific groups and individual volunteers, and (3) to demonstrate the clear impact volunteering has on the volunteer and on the profession.

The WSBA’s volunteer opportunities can be categorized in the following ways:

**LONG TERM.**
The WSBA’s volunteering opportunities are predominantly multi-year commitments to serve on a committee, board, or council. Some boards were created by court rule and are administered by the WSBA; volunteers on these boards are nominated by the WSBA Board of Governors and appointed by the Washington Supreme Court. Other boards and committees were created by the WSBA Board of Governors, which also makes the final appointments.

WSBA sections are created by the Board of Governors, but volunteers, elected by section members, comprise sections’ executive committees.

Long-term service presents a unique opportunity to immerse yourself more fully in the work, significantly enhance your skills, and strengthen your knowledge of the subject matter. You get to know the work and the individuals doing that work in a real and meaningful way.

**SHORT TERM.**
Occasionally, the WSBA will create (or be asked to administer) an ad hoc group such as a task force, work group, focus group, or advisory group. These groups generally are focused on a specific topic with a clear question to answer or desired outcome to reach. These groups generally last between 12 and 18 months, until the work is concluded. These short-term opportunities allow volunteers to immerse themselves in a topic of interest in a time-limited manner—which can be a convenient way to volunteer while also balancing numerous other short-term and long-term commitments.

**PROJECT-BASED.**
Project-based volunteer opportunities primarily consist of helping to develop WSBA CLEs and writing articles for Washington State Bar News, NWSidebar, and other WSBA publications. These opportunities allow you your subject matter expertise and passion for a topic to shine on a platform with statewide exposure.

If you find a WSBA volunteer opportunity that looks interesting to you, take a moment to apply. Once you become a volunteer, you will be connected to an active and committed community. Through the initial orientation process, you’ll receive the information and guidance to be supported and successful in your role. So please read through this special issue and consider where best to apply your time, talent, and passions. I hope we are the volunteer community you’ve been looking for. If not, I hope that you find your volunteer community and get the opportunity to experience the benefits and impact of volunteering firsthand, wherever that might be.

**SIDEBAR**

**HELPFUL TIPS**

- If you’re not sure where you’d like to volunteer, complete the Volunteer Interest Form (www.wsba.org/volunteer).
- Have a current résumé and cover letter explaining your interest and qualifications ready to upload with your application. Some opportunities also ask for a writing sample.
- Every effort is made to ensure that each applicant is matched with one of their top three choices. If no match is made, you will hear from staff about other available opportunities.
- When completing your application, please consider providing the optional demographic information. This vital data is used to identify trends, gaps, and areas to celebrate within our volunteer community. Notably, the WSBA volunteer community has been consistently more diverse than the WSBA membership, with a greater percentage of representation of women and BIPOC individuals.
- If you have questions, email barleaders@wsba.org.

WSBA Volunteer Engagement Advisor Paris A. Eriksen is a certified volunteer administrator, the only internationally recognized credential in the field of volunteer administration. Eriksen has worked with volunteers during her entire 14-year career at the Washington State Bar Association.
SPECIAL VOLUNTEER ISSUE

GET TO KNOW A VOLUNTEER AT THE WSBA
a lawyer who, at the beginning of our work together, doubted this career choice and was disillusioned with the practice of law. Two years later, the lawyer had found passion and determination for this work and seemed like a completely different person. It was a joy to see the change.

My favorite memories have been my interactions with WSBA staff. They are amazing, helpful, and always supportive. The WSBA does phenomenal work and employs phenomenal people. I am particularly grateful for my interactions with Member Wellness Program Manager Dan Crystal and Senior Disciplinary Counsel Francesca D’Angelo. Their commitment to what they do and to the lawyers and the public they serve amazes me. Every time I interact with them I feel proud to be part of this profession.

**Q** Did you have any misconceptions about volunteering before you began this role and have they changed?

**A** I did not have any misconceptions about volunteering. However, I personally experience civil volunteering differently from professional volunteering. I believe that we are privileged to practice this noble profession and volunteering for the Bar Association is something about which I feel particularly devout. As lawyers, we don’t just have careers or jobs. While running a law practice is an enterprise, what we do extends beyond ourselves. Our work impacts our clients, the community, and society as a whole. Lawyers have the power to shape the world to be a better place! We owe a lot to the people we serve and to the state that entrusts us with a license to represent others. I believe it is fundamental to maintain the highest standards of practice and safeguard the integrity and credibility of our profession. In this respect, volunteering for the Bar Association is very different from any other volunteering because it builds a community of lawyers and fosters a system of self-governance and self-accountability.

**Q** What have you learned from volunteering? Has it changed your approach to your work outside of volunteering?

**A** I learned that, like everyone else, lawyers experience a range of difficulties in their lives, such as health problems (whether physical or mental), relationship problems, economic hardships, substance use issues, etc. It has been a humanizing experience to interact with good lawyers going through rough patches—fellow lawyers who just need help. Unfortunately, I also learned that some lawyers fall short of their obligation to this profession and do not quite appreciate the nature of the legal profession as different from any other job or business. This has increased my appreciation for the tireless efforts the Bar Association makes to protect the public, while educating, rehabilitating, mentoring, and even disciplining lawyers, where necessary. I now see lawyers for who they are, not for what they do. I empathize a lot more with other lawyers. Suddenly, the notion of opposing counsel feels different, as the impliedly antagonistic element is removed. I simply see people committed to their work, experiencing life, and sharing a passion for this profession.

**Volunteering for the Bar Association is very different from any other volunteering because it builds a community of lawyers and fosters a system of self-governance and self-accountability.**
Fitness Board. Although each position has had many rewarding moments, I always felt especially happy when the Character and Fitness Board considered an applicant who had some troubling history, and after intense scrutiny was able to conclude that the candidate had been rehabilitated and was fit to take the bar exam. The Board members worked very hard to give fair consideration to each candidate, while protecting the public. I believe that many of the practitioners we approved will be passionate, empathetic advocates for clients who have undergone similar life experiences.

**Q** Did you have any misconceptions about volunteering before you began this role and have they changed?

**A** I don’t think I had any real misconceptions about volunteering. I’ve been fortunate to work with great individuals and dedicated staff at the WSBA. I don’t think most members of the Bar realize what a high level of support they receive from WSBA staff.

**Q** What have you learned from volunteering? Has it changed your approach to your work outside of volunteering?

**A** I’ve learned quite a bit of substantive law while considering issues related to the Rules of Professional Conduct. (This knowledge rarely appears in our advisory opinions, though, because the CPE avoids opining about issues of substantive law.) The most important thing I’ve learned is how many diverse ways folks in Washington engage in the practice of law. Coming from a government practice background, it’s been a treat to share committee work with law professors, criminal law practitioners, solo practitioners, in-house counsel, etc. That experience has broadened my way of thinking about legal issues and the Rules of Professional Conduct and how they affect different constituents in different ways.

**SIDEBAR**

**WSBA Volunteer Satisfaction Survey Data**

<table>
<thead>
<tr>
<th></th>
<th>FY18</th>
<th>FY20</th>
<th>FY22</th>
</tr>
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<tbody>
<tr>
<td>My talent and skills were a good match for the volunteer role in which I served.</td>
<td>97%</td>
<td>91%</td>
<td>91%</td>
</tr>
<tr>
<td>My time and talent in this volunteer position were valued by the organization.</td>
<td>71%</td>
<td>74%</td>
<td>79%</td>
</tr>
<tr>
<td>Overall, I was satisfied with my volunteer experience.</td>
<td>80%</td>
<td>76%</td>
<td>83%</td>
</tr>
<tr>
<td>I would volunteer again.</td>
<td>79%</td>
<td>81%</td>
<td>83%</td>
</tr>
</tbody>
</table>

— Staff graphic
to create real and lasting change. It was imperative that we work side by side with communities who have been most harmed and have the lived experience of injustice. They should lead this very important work. CAP is made up of people from around the state who know best the issues that are holding their communities down and have ideas for solutions. The ATJ Board and CAP began meeting in fall 2020 to address the disparities and injustice in our legal system. The first step was building trust and defining certain terms to make sure we are speaking the same language. This is the work that has been missing.

Q Did you have any misconceptions about volunteering before you began this role and have they changed?

A I hid my nervousness and reluctance in volunteering on the ATJ Board very well. I have served on a few boards throughout my life; however, the name of this board, its mission, and purpose drew me to apply. One misconception I had was since I was not an attorney, I would not be taken seriously and would need to fight to get my voice heard. Another was that as a woman of color, I would be navigating through another group that was majority white, which meant dealing with micro-aggressions and making sure I was not made a token for my race.

What has changed for me is knowing there are so many more good people in this legal community who are fighting the good fight for race equity.

What have you learned from volunteering? Has it changed your approach to your work outside of volunteering?

A While I have known from a young age that our legal system and our laws have not served us well, my eyes have been opened more since volunteering. I have learned how disjointed and fractured our state legal system actually is. I have learned how process and procedure have often been prioritized over justice for individuals trapped in the system. I have learned that the lack of people of color at all levels of our judicial system is a great hinderance to achieving the goal of justice and race equity.

I am an “outsider” looking into a system that for me has represented fear, hopelessness, and anger. It is a system that represents family separation, trauma, violence, disempowerment, and poverty. My work and that of many others has been to pay attention, learn, and change those things about us that get in the way of doing good work. This is not about volunteer work versus work outside of volunteering. There is only the work. To achieve justice, we have to take the time to build authentic collaborations and partnerships with the community. There are those who don’t believe this or want this, so don’t let them stop us. Let’s continue to educate ourselves and others as we go about doing the work.

What has changed for me is knowing there are so many more good people in this legal community who are fighting the good fight for race equity.
Get to Know a Volunteer at the WSBA

CONTINUED >

LAURIE POWERS

SHE/HER

Current Job Title: Assistant Dean, Gonzaga University School of Law
Job Location: Spokane

VOLUNTEERS WITH:
WSBA Small Town and Rural (STAR) Committee
Volunteer Role: Gonzaga University School of Law Member

Q What has been the proudest moment or favorite memory so far as a WSBA volunteer?

A Over the course of my 30-year legal career, I have been involved with the WSBA in many capacities. During my recent work with the Small Town and Rural (STAR) Committee, I was particularly proud when the three-phase approach developed by the Pipeline Subcommittee that I chair was adopted as the work plan for the STAR Committee as a whole. After several years of discussion, ideation, and collaboration, we are now moving forward with concrete steps to advance opportunities for STAR practice. Last fall we held the first STAR practice information session for all Washington law students and attorneys, and in March we held the first STAR Virtual Interview Day for law student internships and attorney positions. These are small steps, but they are definite ones that we hope become annual events and allow us to move ever forward in providing the incentives and support needed to expand successful legal careers in STAR communities. As an Eastern Washingtonian, I am deeply committed to access to justice in these legal frontiers. I am grateful for the work of the STAR Committee and the support of Gonzaga University School of Law in hosting these inaugural events.

Q Did you have any misconceptions about volunteering before you began this role and have they changed?

A I am a doer and a tad impatient. I have no interest in tedious meetings on repeat. I have been on different rural community task forces over the years and was afraid the STAR Committee might be a waste of time. Also, as can be the case with volunteer service, I was concerned that the needs for service would quickly outstrip my bandwidth. Fortunately, our committee receives excellent administrative support and guidance from WSBA staff. I find it tremendously helpful to have that structure to keep us on track and moving forward, even as the composition of the committee changes from year to year.

Q What have you learned from volunteering? Has it changed your approach to your work outside of volunteering?

A Having practiced in Western Washington for many years before relocating to Spokane in 2004, I was taken aback by how disconnected I felt from WSBA activities once I was on the eastern side of the state. While I deeply appreciate the many Seattle-area colleagues I have worked with over the years, King County does not dominate the work of the STAR Committee. We have practitioners from all over Washington, from private practice, legal aid, government, and public defense coming together to look at the practice needs for STAR communities statewide. I have been energized by engaging with this cross section of dedicated WSBA members. There have been elements of design-thinking in our approach as we look closely and broadly in coming up with innovative solutions. I carry that learning forward in my daily work.

CATHY M. HELMAN

SHE/HER

Current Job Title: Administrative Law Judge, Office of Administrative Hearings
Job Location: Spokane Valley

VOLUNTEERS WITH:
WSBA Board of Bar Examiners
Volunteer Role: Co-Chair
Q What has been the proudest moment or favorite memory so far as a WSBA volunteer?

A My proudest moment as a WSBA volunteer is every time our board finishes an exam grading conference, knowing that we’ve given each exam careful, thoughtful, and fair consideration. Also, I believe behind every exam is a qualified and hard-working applicant, and I feel pride for those who have met challenges and overcome obstacles to sit for the exam. It’s a big accomplishment.

Q Did you have any misconceptions about volunteering before you began this role and have they changed?

A My biggest misconception about volunteering on the Board of Bar Examiners is that there wouldn’t be much collaboration between me and the other board members since our board usually meets only twice a year to quietly grade exams. However, I’ve discovered that there is a lot of great collaboration between grading teams, and that this collaboration is crucial to a successful grading conference. I also didn’t realize how much I would enjoy the grading process and spending a weekend reading hundreds of answers. I think most, if not all, members of the Board of Bar Examiners would express how oddly enjoyable this can be and it’s why we all continue to volunteer.

Q What have you learned from volunteering? Has it changed your approach to your work outside of volunteering?

A Volunteering on the Board of Bar Examiners has reinforced my belief that there are many different ways to communicate a message. When grading exams, answers to the same question can be presented differently. There are differences in formatting, vocabulary, tone, organization, etc. It’s very important not to have any preconceptions or make assumptions when reviewing an answer and instead grade based on what is presented. I use this same approach with my personal interactions outside of the WSBA, especially as an Administrative Law Judge on a caseload with primarily unrepresented participants.
BY ALLISON R. FOREMAN

The Washington State Bar Association makes its home at 1325 4th Avenue in Seattle. Its leadership regularly sends forth calls for volunteers from that address: serve on a committee, run for a seat on the Board of Governors, lead a section, teach a seminar live at WSBA headquarters. Absent an overactive spam filter, I bet you get those emails just as frequently as I do. And if you live outside the greater Seattle area like me, you probably also delete them.

I understand why. Without traffic, it’s about a 2 1/2-hour drive from 1325 4th Avenue to my office in Wenatchee; a 1 1/2-hour drive on I-5 to get to Bellingham; almost three hours in the other direction on I-5 to make it to Vancouver; about four hours to reach Spokane or Walla Walla; and three hours (plus a ferry ride) to Friday Harbor. From Republic, in the northeast corner of the state, steel yourself for a soul-crushing 5 1/2-hour drive to the WSBA, bathroom breaks not included. These times assume no traffic—and there is always traffic.

Attorneys who practice outside the Puget Sound area are all too aware of these distances. No wonder they are not rushing to volunteer for the WSBA. If live attendance is required, accepting a volunteer position may require multiple hours of driving or even overnight
travel on a regular basis. This is costly—not just in terms of travel expenses, which the WSBA does reimburse, but also considering lost billable hours, environmental impacts, and time away from family and friends. It all adds up to a price heavier than most volunteers are willing to pay. And so, the emails keep being deleted and volunteer opportunities linger untaken.

That could be the end of the article right there. But from my perch, 150 miles to the east of WSBA headquarters, I have found ways to overcome these obstacles and both effectively and efficiently volunteer my time to the Bar Association. What follows are five ways that attorneys can meaningfully contribute to the WSBA without leaving their hometowns. If you want to help but also want to avoid driving the I-5 corridor, sit back, keep your car in the garage, and read on.

1. **Join a Section Committee**

   A great way to put your toe into the water of volunteering is to join a section committee. The WSBA boasts a grand total of 29 sections—there really is something for everyone. Many of these sections have executive committees and subcommittees focused on special topics within the broader subject matter of the section. Most—if not all—of these committees meet remotely. The Family Law Section Executive Committee, for example, meets by video conference only. So too does the Estate and Gift Tax Committee of the Taxation Section: one Friday a month at noon on Microsoft Teams. Do any litigators reading this have the second Thursday free from 1 to 2 p.m.? If so, you could volunteer for the Litigation Section Executive Committee. It conducts all of its meetings by telephone conference at that time. No commuting required; volunteering from Ephrata is just as easy as volunteering from Seattle. Consider joining a section committee in your area of practice if this sounds like the right time commitment.

2. **Write an Article for Bar News**

   If you have video conference fatigue from the pandemic, fear not—there are other ways to volunteer your time remotely. One that involves zero on-screen time is writing a piece for the very publication you are reading now. The editorial staff of the magazine welcome articles for consideration submitted sua sponte by the WSBA membership, regardless of the topic. Analysis of a new statute? An explanation of your favorite area of substantive law? Book reviews? Reflections on new challenges or issues in your legal practice? Letters to the editor? All are appreciated and valued.

   Your opinions and knowledge about the practice of law and the administration of justice could help readers struggling with similar issues in their legal careers, a valuable volunteer service that requires no facetime at all. An added bonus for these volunteer authors? A new publication on their CV. If volunteering with the written word is more appealing than face-to-face volunteering, go ahead and submit an article to *Bar News* at wabarnews@wsba.org.

CONTINUED >
Teach a Remote CLE

Another option for remote volunteering is teaching an online CLE seminar. The WSBA and many of its sections offer wholly remote CLE programming that is designed to be accessible to all of their members, near or far. This means that faculty for that programming can also be near or far. An attorney on Bainbridge Island might be learning estate planning from a volunteer faculty member in Ritzville, for example, and never know the difference. All you need is a good Zoom background, a decent internet connection, and a solid understanding of your topic. WSBA staff and section volunteers handle all the rest, including the logistics, technology, marketing, audience questions, live chat monitoring, and reviews. If you are lucky enough to have one of the CLE Education Programs Leads guide you through the presenting process, they will also keep you on track with deadlines for your seminar title, written materials, and multimedia support tools (i.e., slides) and walk you through how to use the presenting portal. It could not be easier.

If you have a penchant for teaching and mentorship, consider volunteering to join the faculty of a remote CLE the next time a WSBA call for volunteers lands in your inbox. Just watch out for the cat filter.

Join a WSBA Committee

This next volunteer option is a bit tricky. Many statewide WSBA commitments require in-person attendance: it might be difficult to serve on the Board of Governors, for example, without attending most meetings live. Granted, those meetings do rotate around the state, but if regular travel is out of the question, that eliminates some statewide volunteer opportunities. Nevertheless, there are statewide WSBA committees that meet remotely. The Access to Justice Board, for instance, meets once a month from 10 a.m. to noon exclusively by videoconference; the Editorial Advisory Committee, which stewards the publication of Bar News, meets remotely in the afternoons; and the Small Town and Rural Committee, which boasts members from literally all four corners of Washington and everywhere in between, meets entirely by Zoom. These committees may have in-person events and meetings from time to time, but such occasions are the exception, not the rule, so it is possible to meaningfully participate without the commute. And with nearly 40 statewide committees to choose from, one is bound to match your strengths as a volunteer.

Vote in WSBA Elections

I saved the lowest-hanging fruit on this list for last: voting in WSBA elections. As of this writing, four seats on the WSBA Board of Governors are up for election this year, representing Congressional Districts 6 and 8, along with elections for Governor At-Large and President-Elect. If you want to put your name forward for one of those positions, go for it—a term on the Board of
Governors is an incredibly generous act of volunteer service for the WSBA. But if multiday board meetings in Yakima, Vancouver, Richland, and Spokane over the next six months are too much, then please volunteer your time by researching the candidates, becoming familiar with their positions, and making an informed decision when you vote in the next WSBA election. The leadership of the WSBA has a huge impact on the experience of practicing law and the direction of the Bar throughout the state, so contributing your voice to its selection is important. It only takes a few minutes of your time, but the effect can be big if everyone does it—and it still counts as volunteering in my book.

A final note

Volunteering does not have to be solely with the WSBA to have a meaningful impact on the legal community. Leading your local bar association, volunteering for your county’s legal aid services, or participating in remote volunteer opportunities hosted by other legal organizations like Northwest Justice Project can be effective ways to volunteer without travel obligations. Hopefully the ideas discussed in this article inspire you to volunteer your time and talents to the WSBA or the community at large as you are able, where you are able, within your time and geographic constraints. If we all did that, we might soon replace our shortage of volunteers with a surplus, one drawn from the full breadth of Washington and the full strength of our Bar Association. I hope you will join me in coming forward to bridge this gap from afar.

Allison R. Foreman is a partner at Foreman, Hotchkiss, Bauscher & Zimmerman, PLLC in Wenatchee, where she practices in the areas of probate, trusts, estate planning, civil and estate litigation, and business advising, with a focus on tax and agricultural issues. She can be reached at allison@fhbzlaw.com.
“Why do you volunteer for bar committees?” asked the Bar News editor. “Could you write about your experience and the impacts the WSBA’s Council on Public Defense has had?”

This led me to reflect on my more than 40 years on state, local, and national committees related to public defense. The work has been rewarding and has led to real change. As I often tell students and new lawyers, if you volunteer and are willing to work, you can fairly quickly help to set the agenda of committees and even become an officer. I became the chair of the WSBA Criminal Law Section after being in practice for about seven years. And three years later, through the Section, we were able to gain the support of the WSBA Board of Governors for public defense standards developed by the Washington Defender Association (WDA). Those standards became the foundation for later revisions that were in large part adopted by the Washington Supreme Court in its rules requiring public defense counsel to comply with standards that include caseload limits and experience qualifications. See, e.g., CrR 3.1 Standards for Indigent Defense. I’ll return to these standards, and their continuing impact statewide, later in this article.
HISTORY AND ACCOMPLISHMENTS OF COUNCIL ON PUBLIC DEFENSE

In 2002, WDA asked the WSBA to make a major commitment to improve public defense. Jon Ostlund, then the Whatcom County public defender and the first defender to be on the WSBA Board of Governors, arranged to invite WDA to make a presentation. WDA Executive Director Christie Hedman, Snohomish County Defender Director Bill Jaquette, and I explained the serious problems of excessive caseload and inadequate resources across the state. The Board appointed a task force which issued a report that led to the Council on Public Defense (CPD) being formed.

The CPD’s wide-ranging charter includes the following:

- Recommend amendments to and mechanisms to assure compliance with public defense standards and performance guidelines to the BOG and the Washington Supreme Court.
- Develop “Best Practices” guidelines for public defense services contracts.
- Address current issues relating to the provision of constitutional public defense services in Washington, including supporting efforts to ensure adequate funding is available.
- Seek, review and recommend possible improvements in the criminal justice system which might impact public defense or the ability to provide public defense services.
- Improve delivery of defense services in Washington by examining and reporting on public defense systems and projects.
- Develop recommendations concerning the most effective and appropriate statewide structure for the delivery and accountability for defense services.

I was an original member of the WSBA Committee on Public Defense and later the Council on Public Defense. For the past 19 years, the CPD has successfully promoted court rules and developed guidelines and standards that have transformed the practice, helping thousands of clients across the state.

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The Washington Supreme Court asked the CPD to develop guidelines and approved a court rule proposed by the CPD that juveniles cannot waive counsel until they have had advice from a lawyer. JuCR 7.15. This effectively ended what had been the practice in some courts in which judges were accepting guilty pleas from children who had no lawyers.

The Supreme Court adopted another rule proposed by the CPD, RPC 1.8(m), which states that it is a conflict of interest for a lawyer to enter into or accept compensation under a public defense contract if the contract requires the lawyer to compensate conflict counsel, expert witnesses, and investigators out of the lawyer’s own compensation.

The court rule limiting caseloads, referenced earlier, resulted in drastically cutting caseloads for many public defense counsel, particularly in misdemeanor courts. In some jurisdictions, the caseloads were cut by more than half. Lawyers who had been representing more than 1,000 clients a year were now limited by court rule to no more than 400. The rule also led to increased diversion of misdemeanor cases, particularly for driving while license suspended in the third degree, offenses that mostly are for failing to pay tickets. In Spokane, greater diversion of those cases alone dropped the municipal court public defender caseloads by one-third, from 600 to 400.

While the caseloads in most places are still too high and working on 400 cases per year is crushing and threatens the ability to provide effective representation, lawyers have had substantially more time to work on their clients’ cases since the rule became effective. Because there is a limit, many defender offices have reexamined long-standing practices and pushed the caseload down below the limit set by the rule.

New national workload standards are scheduled to be published this spring, and they likely will recommend even lower caseload limits for felony and misdemeanor cases. I am hopeful that the Washington Supreme Court, having

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LAWYER ANNOUNCEMENT
recognized the importance of limiting caseloads, will be open to amending the rule and reducing defender workloads further.

**CPD ADVISORY NOTICES AND STATEMENTS**

After the murder of George Floyd, the CPD issued a response to the Supreme Court’s call to action; it stated in part:

All members of the legal community, including public defenders, have been complicit in where the legal system is today. Defenders have led efforts to challenge racial bias but must continue to commit to embracing anti-racism, eliminating explicit and implicit biases, and advocating to dismantle white supremacy in the legal system. We must examine our own biases and blind spots and create opportunities for others to do the same.

During the first two years of the pandemic, the CPD issued three statements and advisory notices aimed at helping defenders and local governments respond to increased workloads and other challenges caused by the pandemic.

In July 2022, the CPD issued a statement, adopted by the WSBA Board, “Public Defense Lawyers Should Seek Relief from Excessive Workloads.”

The statement began, “Public defense lawyers in Washington face a workload crisis, threatening their clients’ right to effective representation and the well-being of the lawyers and their staffs.” The CPD found that the primary reasons for the workload crisis were the following:

- Inability to recruit and retain sufficient numbers of public defense lawyers to handle the total workload;
- Inadequate resources, such as support staff, investigators, and social workers; and
- Inability to resolve cases, particularly the complex cases, in a timely manner in order to offset new case assignments, in part due to the pandemic.

Citing previous statements approved by the WSBA Board as well as the American Bar Association, the CPD wrote:

Washington defenders and assigned counsel can and should seek relief from excessive workloads, declining to accept new appointments, working with others to develop and increase diversion programs, and seeking new or improved resources.

Defenders across the state have cited the CPD/Board statements in efforts to obtain additional resources.

**INTEGRATING STATE AND NATIONAL EFFORTS**

By working with state and national organizations, I have been able to integrate good ideas and practices into each. We can cite Washington examples when we write national policy statements, and we can cite national standards when we write Washington standards. An example of that was the American Council of Chief Defenders Statement on Caseloads and Workloads, which was produced by a committee I chaired. The statement referred to both Washington and King County caseload limits.

It also is possible to connect projects to other organizations. In the case of the CPD, that includes the Washington Supreme Court’s Minority and Justice Commission and its Gender and Justice Commission, the Washington Office of Public Defense, and nonprofit organizations including TeamChild, WDA, and the ACLU-WA.

**VOLUNTEERING IS GOOD FOR YOU, THE PROFESSION, AND THE PUBLIC**

One advantage of joining bar committees is the opportunity to work with bright and committed lawyers and non-lawyers seeking to improve the legal system. The exchange of ideas, often during months of meetings and drafting documents, can result in solid products that can lead to real reform.

The *Seattle Times* reported in February that “volunteerism has continued to decline in the Seattle area.” Only 22 percent of Seattle-area adults said they had volunteered in the past 12 months. I do not know what percentage of lawyers volunteer, but I know that much of the great work of both the WSBA and county bar associations is done by volunteers and often leads to real reform as well as pro bono representation of people who cannot afford to hire a lawyer.

The CPD vice-chair, Maia Vanyo of the Whatcom County Public Defender Office, invites “anyone interested in public defense to join our open monthly meetings to hear and participate in discussions about issues affecting the administration and provision of public defense services.”

I highly recommend finding a committee or project that aligns with one’s values and interests. The volunteer work can illuminate one’s “day job” and provide a way to channel energy and skill for real change.

**NOTES**

1. The Washington Supreme Court’s June 4, 2020 letter to members of the judiciary and legal community is available at www.courts.wa.gov/content/publicUpload/Supreme%20Court%20News/Judiciary%20Legal%20Community%20%20SIGNED%20%20060620.pdf.
This April/May 2023 edition of Bar News is dedicated to highlighting the vital role of volunteers at the Washington State Bar Association. In recognition of National Volunteer Week (April 16-22, 2023), we wanted to highlight a number of ways you can get involved with your Bar.

So please, peruse the chart to find a volunteer opportunity that best aligns with your interests, skills, experiences, and professional goals.

Note: certain entities have specific eligibility requirements. The skills and descriptions described are general and not intended to limit an eligible applicant from applying and seeking appointment.
### YOUR INTERESTS, SKILLS, EXPERIENCES, AND GOALS

| Administrative Processes | Civil Legal Aid, Pro Bono and Public Service | Critical Thinking and Analysis | Delivery of WSBA Events and Programs | Diversity, Equity and Inclusion | Education and Ethics | Effectuate Systemic Change | Event Planning | Group Collaboration | Leadership Development and Membership | Centers Voices of Oppressed Communities | Policy/Rules/Legislation | Public Protection | Recruitment and Peer Recognition | Regulatory Oversight | Research, Writing and Communications | Technology |
|--------------------------|---------------------------------------------|-------------------------------|------------------------------------|---------------------------------|-------------------------|------------------------|----------------|-------------------------|----------------------------------------|------------------------------------------|----------------|-----------------------------|---------------------------------|-----------------------------|----------------|

**WSBA COMMITTEES AND COUNCILS**

- Committee on Professional Ethics*
- Continuing Legal Education Committee
- Council on Public Defense*
- Court Rules & Procedures Committee
- Diversity, Equity & Inclusion Council
- Editorial Advisory Committee
- Judicial Recommendation Committee
- Legislative Review Committee
- Member Engagement Council
- Pro Bono and Public Service Committee
- Section Executive Committees (29 Sections)
  - Application deadlines may vary.
- Small Town and Rural Committee
- Washington Young Lawyers Committee

**BOARDS AND PANELS**

- Adjunct Disciplinary Counsel Panel
- Board of Bar Examiners
- Character & Fitness Board*
- Client Protection Board
- Law Clerk Board
- Access to Justice Board*
- Disciplinary Board*
- Disciplinary Selection Panel
- Hearing Officer Panel
- Limited License Legal Technician Board*
- Discipline Advisory Round Table*
- (joint venture of the WSBA and the Supreme Court)
- Limited Practice Board*
- Mandatory Continuing Legal Education Board*
- Practice of Law Board*

*Updated as of Feb. 1, 2023

**LEARN MORE AT WSBA.ORG**

Want to learn more about each of these committees, boards and panels? Scan the QR code to read details about each.»
Court Rules and Procedures Committee

NUMBER OF MEMBERS: 28

What does your group do?
Each year, the Court Rules and Procedures Committee reviews specific sets of court rules under a schedule established by the Washington Supreme Court. This year, the committee is reviewing the Evidence Rules and Infraction Rules for Courts of Limited Jurisdiction, and next year will review the Mandatory Arbitration Rules, Civil Rules for Superior Courts, and Civil Rules for Courts of Limited Jurisdiction. Proposed rule changes may be submitted for review by committee members or outside stakeholders and are discussed and vetted by subcommittees for submission to the full committee. If the full committee approves the proposed amendments, they are forwarded to the WSBA Board of Governors. If approved by the Board, they are forwarded to the Supreme Court for posting for comment and final action.

On average, how many hours do you think group members dedicate to the work of this group (both during and to prepare for any meetings)?
The number of hours varies depending
on the issues facing the committee. Some months only require one or two hours. Much of the work occurs in subcommittees. If the subcommittee is active or is dealing with a complex rule proposal, the time can increase to about five to 10 hours during the busiest months.

“This is my second time serving on this committee, and I have found it quite interesting and rewarding. It is one of the few places where, if you have seen a rule that needs tweaking, either because it is outdated or didn’t envision a certain scenario, you can raise the issue with this committee and work with brilliant lawyers representing a cross section of the Bar. Proposals that have been drafted and edited by the committee are now rules enforced by the courts.”

— Paul Crisalli, chair

Environmental and Land Use Law Section
Executive Committee

NUMBER OF MEMBERS: 11

What does your group do?
The Environmental and Land Use Law (ELUL) Section supports the interchange of ideas surrounding environmental and land use law, helping members keep up with these rapidly developing areas of law. Accordingly, it regularly publishes information via its blog, which provides analyses of fundamental and emerging environmental and land use law issues. During the legislative session, the ELUL Section shares regular legislative updates about relevant bills.

The Section hosts an annual midyear CLE and mini-CLEs throughout the year. The Section also provides scholarships and hosts networking events for law students.

On average, how many hours do you think group members dedicate to the work of this group (both during and to prepare for any meetings)?
Four to 10 hours per month, on average, depending on your Executive Committee position and status of planning for upcoming ELUL Section-sponsored events.

“I started volunteering on the ELUL Executive Committee as a brand-new attorney in this field (and in Washington) in the hopes of building new connections and getting to know the environmental and land use bar. The ELUL Section provides an amazing service to its members including regular networking opportunities, law school and young attorney outreach, as well as tangible learning opportunities like legal and legislative updates and CLEs. I’m beyond impressed by the experience, dedication, friendliness, and collaboration of this committee and am thrilled to be a part of it.”

— Gabby Gurian, executive committee member

Client Protection Board

NUMBER OF MEMBERS: 13: 11 lawyers, two public members

What does your group do?
Per Admission and Practice Rule (APR) 15, the Client Protection Board (CPB) reviews claims for reimbursement of financial loss sustained by clients of WSBA members who have engaged in dishonest actions or failed to account for client funds. The CPB decides on gifts up to $25,000, and makes recommendations...
to the Board of Governors on claims for greater amounts, with the maximum gift of $150,000. The CPB reviews approximately 80 to 100 applications for reimbursement per year.

On average, how many hours do you think group members dedicate to the work of this group (both during and to prepare for any meetings)? Depending on the number of applications, our board members spend two to three hours preparing for each meeting.

This board works hard to be consistent with decision-making regarding gifts. Everyone on the board has experience and perspective, which is invaluable when reviewing and discussing the applications. We learn from each other while helping the community.

— Carrie Umland, chair

**Member Engagement Council**

**NUMBER OF MEMBERS: 12**

**What does your group do?**
The council educates members in a proactive manner about the WSBA’s and the Board of Governors’ actions and work, seeks input and involves members in decisions, builds relationships between members and WSBA governance, and ensures ongoing updates to members on WSBA processes and measurement of the success of those processes. The council creates mutual understanding between the Board and members; drives Board priorities; forms relationships with WSBA Sections, specialty, minority, and regional bars; and shares opportunities. The council serves as an advisory body to the Board of Governors as set forth in the WSBA Bylaws.

On average, how many hours do you think group members dedicate to the work of this group (both during and to prepare for any meetings)?

Members dedicate about four hours per month overall. The group meets for 90 minutes over Zoom each month, and members spend the rest of the time reviewing materials to prepare for meetings. The co-chairs spend an additional 1–2 hours to set each agenda. Ad hoc work groups sometimes meet between meetings to collaborate on tasks like drafting survey questions.

The council provides an opportunity to engage with members from all across the state. You get to hear about the thrills, successes, and challenges of legal practice in diverse places and communities. The added opportunity to propose ideas and suggestions to the Board of Governors on the endemic challenges and struggles faced by legal practitioners statewide is quite rewarding. We also do frequent surveys of our members to find out what they need to do their job and how the Bar Association can serve them better.

— Francis Adewale, co-chair

**Law Clerk Board**

**NUMBER OF MEMBERS: 11**

**What does your group do?**
Law Clerk Board members have the opportunity to oversee this unique program. Law Clerk Board members serve as liaisons to numerous clerk/tutor pairs. Board members attend bi-monthly meetings, review monthly exam submissions from clerks, interview applicants for enrollment and course of study, provide input for clerk/tutor first- and fourth-year evaluations, and certify clerks upon completion of the program for their eligibility to apply to sit for the Washington lawyer bar exam.

On average, how many hours do you think group members dedicate to the work of this group (both during and to prepare for any meetings)?

The Board of the Admission and Practice Rule (APR) 6 Program provides primary oversight of all law clerks throughout the state as well as providing support to tutors, evaluating and approving applications to the program, and doing community outreach to raise awareness about the Law Clerk Program. As the current chair of the board, I probably devote five to 10 hours per month to my role between board meetings and communications and review of clerks.

As an attorney who completed the APR 6 Program as well as a Law Clerk Board member who has chosen to renew my term of service over the years, I think that this is a vital program to providing a path to legal service to folks who might not have access to traditional law school but are making incredibly important contributions to our legal community. It’s an honor and a pleasure to volunteer to keep this great program going strong.

— Emily Mowrey, chair
THANK YOU
WSBA VOLUNTEERS

Thanking all of you who generously give your time to support and energize your bar association and the profession! We are heartened by your passion and humbled by your fortitude as we work together in our common mission. You are exemplars of teamwork and initiative, and your reliability and integrity inspire us all. It is a privilege to work with you.
MARCH 3-4, 2023

A Summary of the Board of Governors Meeting

The WSBA Board of Governors determines the Bar’s general policies and approves its annual budget.

TOP MEETING TAKEAWAYS

1. Meeting with the Supreme Court. As is the annual tradition, the Board met with the Washington Supreme Court to discuss items of mutual interest, including updates about WSBA financial performance, strategic goals, and the future of the WSBA facilities and office space; activities to expand diversity, equity, and inclusion efforts; and the Practice of Law Board’s proposal for data-driven legal regulatory reform. In another annual tradition, the WSBA officers also met with the governor while they were in Olympia.

2. Budget Retreat. The Board devoted four hours to a discussion about the Fiscal Year 2024 budget process and overall philosophy. The intent was to set broad parameters for collecting potential new items for the upcoming budget and prioritizing budget outcomes. The 2024 license fee has already been set, to remain stable, but the upcoming budget process will include the license fee for 2025 and possibly beyond.

3. Legal Regulatory Innovation. After presentations from the Utah State Bar and Arizona’s Administrative Office of the Court, as well as materials defining alternative business structures, Washington’s Practice of Law Board (POLB) chair provided more information about its current proposal to seek permission from the Washington Supreme Court to begin drafting rules to authorize data-driven legal regulatory reform here in Washington. The proposal would define processes to collect data to inform the court’s decisions on regulatory reforms, including potential licensure of alternative business structures and nontraditional online legal services, provided data shows that they provide competent services with minimal risk of harm to the public. The court requested comments from the Board. The Board identified many questions and concerns still to be addressed and authorized a letter to the court urging the court and the POLB to move forward to flesh out more details.

4. Change in Eligibility Requirements for At-Large Board Seats. The Board approved a recommendation from the Diversity, Equity, and Inclusion (DEI) Council to amend the WSBA bylaws to change the eligibility requirements to run for two At-Large seats on the Board of Governors. The change defines candidacy for these seats in a way that better supports the intention in creating the seats—to expressly include in Board leadership people with lived experience in underrepresented communities (people who, historically, have been overtly or covertly banned from the profession and leadership). The new definition adds religion and ethnicity; changes gender to gender expression and gender identity; and removes geographic area, types of practice, and years of practice from the eligibility criteria.

5. Amendments to Rules Regarding Fee-Sharing With Lawyer Referral Services. The Board approved proposed amendments to RPC 1.5(e)(2); 5.4, and 7.3, recommended by the Committee on Professional Ethics (CPE), to go to the Washington Supreme Court for consideration. The amendments are intended to clarify when a lawyer may share a portion of a fee with a not-for-profit lawyer referral service. By clarifying the fee-sharing process, the CPE hopes to support access-to-justice efforts, since many lawyer not-for-profit referral services serve underrepresented populations.

6. Gathering Input on Amendments to GR 12.2 (WSBA Authorized Activities). The Equity and Disparity (E&D) Work Group was formed by the...
Board of Governors in 2020 as a response to civil unrest and uprising. The work group is tasked with reviewing the rules, regulations, and laws related to the practice of law and administration of justice and to identify and recommend amendments to any rules that impede actual justice and fairness. The group has identified General Rule 12.2(c) as one such rule, since its focus on the word “political” leads to confusion about the court’s instructions to the WSBA. The proposed amendment would remove the words “political and social issues” and instead refer to the court’s regulatory objectives in GR 12.1. The presentation was for information only, and the work group will seek broad feedback from members before returning a proposed amendment to the Board of Governors for action.

THE BOARD ALSO:

- Held a first reading of a proposed policy from the WSBA Task Force Administering Xenial Involvement with Court Appointed Boards (TAXICAB); the goal of the policy and task force is to clarify expectations and roles—including budgeting and staff-time allocation—when the WSBA administers Supreme Court boards.
- Discussed the executive director’s evaluation in executive session.
In Remembrance

This In Remembrance section lists WSBA members by bar number and date of death. The list is not complete and contains only those notices of which the WSBA has learned through correspondence from members.

Please email notices to wabarnews@wsba.org.

Elizabeth Adams, #31069, 9/5/2022  
Mark Beam, #5957, 12/15/2022  
James Boldt, #32225, 1/21/2023  
John Burke, #37952, 9/2/2022  
Brian Butler, #15529, 6/11/2022  
Steven Claussen, #17495, 4/12/2022  
Richard Coyle, #6498, 2/15/2023  
Michael Fahey, #35107, 3/2/2022  
John Flowers, #24315, 12/2/2022  
James Gauthier, #15767, 2/7/2023  
William (Bill) Gilbert, #15769, 4/9/2022  
Timothy Jaasko-Fisher, #26058, 10/23/2022  
Richard Hames, #14363, 1/28/2022  
John Hollowed, #17185, 2/21/2023  
Christopher Kane, #4999, 2/7/2023  
George Kargianis, #286, 6/1/2022  
Albert Kennedy, #15074, 12/19/2022  
Ralph Klose, #14742, 1/5/2023  
Douglas MacPherson, #11505, 12/9/2022  
Kevin McLean, #16964, 1/27/2023  
Steven Palmer, #11359, 8/23/2022  
Robert Patrick, #4391, 4/16/2022  
Thomas Pickens, #32373, 2/7/2023  
Julie Piper, #45116, 12/4/2022  
Stephen Rose, #12810, 2/3/2023  
Dave Spencer, #3706, 8/5/2022  
Shannon Stafford, #2892, 1/30/2023  
Nicholas Styant-Browne, #32561, 7/17/2022  
Arthur Swanson, #990, 1/29/2023  
Ronald Thompson, #4005, 2/27/2022  
Tracey Thompson, #24546, 1/30/2023  
Laurie Treosti, #21270, 1/17/2023  
Philip Vandeveer, #17876, 5/2/2022

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employment opportunities in rural parts of the state, the WSBA and the Career Center are offering free 30-day postings of jobs for legal professionals in “rural” areas, defined as: “any job not in Thurston, Clark, Pierce, King, Snohomish, Spokane, and Whatcom counties, with the proviso that if the job is in a town of 5,000 or less within said county, it may also be posted for free.” To determine eligibility for a free posting, please contact memberbenefits@wsba.org with “RURAL EMPLOYMENT OPPORTUNITY” in the subject line.

Meet Your New Board Members

Allison Widney (District 3) and current Governor Matthew Dresden (District 7 North) have been declared the winners for their respective districts. The term of office will begin at the conclusion of the September 2023 Board of Governors meeting and last through September 2026.

Volunteer With the WSBA

The volunteer application in myWSBA is now open! Apply early to increase your chances of getting the volunteer opportunity that best aligns with your interests and passions. Visit www.wsba.org/volunteer for more information. Application deadline is April 21 (subject to change).

Serve on the WSBA Board of Governors

The WSBA Board of Governors is seeking applicants for the governor at-large position (with applications going through the Diversity, Equity and Inclusion Council) and 2023-2024 president-elect. The application deadline is April 17. Visit www.wsba.org/elections to learn more.

RESOURCES

Virtual Stress Management Group

How are you managing your three S’s: stress, self-care, and sanity? Looking to enhance your ability to take care of yourself while managing your...

**Notice of Grant Funds Available**

The Legal Services Corporation (LSC) recently announced the availability of grant funds to provide civil legal services to eligible clients during calendar year 2024. The list of service areas for which grants are available can be found at www.lsc.gov/grants-grantee-resources/our-grantprograms/basic-field-grant/lsc-service-areas.

For application instructions, deadlines, eligibility, and submission requirements, visit www.lsc.gov/grants-grantee-resources/our-grantprograms/basic-field-grant. Please email inquiries to LSCGrants@lsc.gov.

**Free Practice-Management Consultations**

The WSBA offers free resources and education on practice management issues. For more information, visit https://www.wsba.org/pma. You can also schedule a free phone consultation with a WSBA practice-management advisor. Visit www.wsba.org/consult to get started.

**Lending Library**

The WSBA Lending Library is open to members for both in-person and online checkouts. We have made a few changes to be aware of. For more information, visit www.wsba.org/library or email lendinglibrary@wsba.org.

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As a member of the WSBA, you have access to the Practice Management Discount Network, a collection of discounts on products and services to help you improve your law practice. We offer discounts on conflict-checking, credit-card processing, encryption, cybersecurity, document editing, document management, e-discovery, marketing and website support, office supplies, practice management software, remote receptionists, and retirement planning.

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**Judges Need Help Too**

The Judicial Assistance and Services Program (JASP) provides confidential support for judges, or those who are concerned about a judge. Contact Susanna Kanther, Psy.D., at 415-572-3803. Visit www.wsba.org/for-legal-professionals/member-support/wellness/judicial-assistance-service-program.

**The ‘Unbar’ Alcoholics Anonymous Group**

The Washington Unbar Alcoholics Anonymous group for legal professionals has been meeting regularly for almost 30 years. The group meets Wednesdays, 12:15–1:30 p.m., and Sundays, 7–8 p.m. Currently, the group meets online via Zoom, and attorneys from all over Washington participate. For more information and Zoom credentials contact unbarwa@gmail.com.

**Health Benefits**

The WSBA Private Health Insurance Exchange offers members access to the most competitive group health insurance solutions on the market. Enjoy unique cost-saving opportunities, complimentary enrollment technology, valuable HR tools, and voluntary premier-level ancillary benefits with special pricing and concessions. Speak to a benefits counselor and request a free quote today: www.memberbenefits.com/wsba.

**New Lawyers List Serve**

This list serve is a discussion platform for new lawyers of the WSBA. To join, email newmembers@wsba.org.

**ALPS Attorney Match**

Attorney Match is a free online networking tool made available through the WSBA-endorsed professional liability partner, ALPS. Learn more at www.wsba.org/connect-serve/mentorship/find-your-mentor or email mentorlink@wsba.org.

**Quick Reference**

**April 2023 Usury**

The usury rate for April 2023 is 12%. The auction yield of the March 6, 2023, auction of the six-month Treasury Bill was 5.183%. The interest rate required by RCW 4.56.110(3) (a) and 4.56.111 for April 2023 is 7.183%. The interest rate required by RCW 4.56.110(3) (b) and 4.56.111 for April 2023 is 9.75%.

**Ability to Share**

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THESE NOTICES OF THE IMPOSITION OF DISCIPLINARY SANCTIONS AND ACTIONS are published pursuant to Rule 3.5(c) of the Washington Supreme Court Rules for Enforcement of Lawyer Conduct. Active links to directory listings, RPC definitions, and documents related to the disciplinary matter can be found by viewing the online version of Washington State Bar News at www.wabarnews.org or by looking up the respondent in the legal directory on the WSBA website (www.wsba.org) and then scrolling down to “Discipline History.”

As some WSBA members share the same or similar names, please read all disciplinary notices carefully for names, cities, and bar numbers.

Disbarred

Nicholas A. Fay (WSBA No. 47603, admitted 2014) of Bellingham, was disbarred, effective 1/25/2023, by order of the Washington Supreme Court. Fay’s conduct violated the following Rules of Professional Conduct: 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 1.15A (Safeguarding Property), 3.2 (Expediting Litigation), 8.1 (Bar Admission and Disciplinary Matters), 8.4(c) (Dishonesty, Fraud, Deceit or Misrepresentation), 8.4(E) ELC Violation.

In relation to his representation of client A in a property dispute, and client B in a landlord-tenant dispute, the hearing officer recommended, and the Supreme Court ordered, that Fay be disbarred following a hearing. Fay was found to have violated the Rules of Professional Conduct by: 1) failing to keep client A reasonably informed about the status of their case and by failing to promptly comply with client A’s reasonable requests for information; 2) failing to act with reasonable diligence in representing client A and in handling their case; 3) by charging and collecting an unreasonable fee of more than $18,000 from client A; 4) by failing to respond to client A’s grievance; 5) failing to promptly provide client B an accounting of their funds upon client B’s request; 6) failing to respond to requests to explain IOLTA account overdrafts, failing to appear for a deposition, and failing to produce documents in response to a subpoena; 7) writing and depositing checks totaling $17,000 made out to Fay, without sufficient funds to meet those checks; and 8) failing to communicate with client A and client B, failing to provide a way for clients to obtain information about their legal matters, and by failing to maintain professional channels of communication by which Fay could be located or corresponded with by clients and others (such as the WSBA and process servers), Fay abandoned his practice without providing for his clients’ needs.

Erica Temple acted as disciplinary counsel. Nicholas A. Fay represented himself. Joseph M. Mano, Jr. was the hearing officer. The online version of Washington State Bar News contains links to the following documents: Hearing Officer’s Recommendation; Disciplinary Board Order Declining Sua Sponte Review and Adopting Hearing Officer’s Recommendation; and Washington Supreme Court Order.

Suspended

Mark John Holady (WSBA No. 19662, admitted 1990) of Beaverton, OR, was suspended for 30 days, effective 11/17/2022, by order of the Washington Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of the State of Oregon. For more information, see https://www.osbar.org/members/membersearch_display.asp?b=900682&s=1. Henry Cruz acted as disciplinary counsel. Mark John Holady represented himself. The online version of Washington State Bar News contains a link to the following document: The Washington Supreme Court Order.

Tarik Polovina (WSBA No. 52816, admitted 2017) of Everett, was suspended for 2 years, effective 1/25/2023, by order of the Washington Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 3.2 (Expediting Litigation), 8.4(c) (Dishonesty, Fraud, Deceit or Misrepresentation), 8.4(f) ELC Violation.

In relation to his representation of a client in a family law matter, the Hearing Officer recommended, and the Supreme Court ordered, that Polovina be suspended following a hearing. Polovina was found to have violated the Rules of Professional Conduct by: 1) failing to respond to the State’s pleadings in a parentage matter or to the State’s requests for information, by failing to appear at a summary judgment hearing, and by failing to file a motion for an emergency hearing; 2) failing to communicate with his client regarding the status of a parentage matter, by failing to inform his client about the State’s pleadings, the State’s requests for information, and the summary judgment hearing in the parentage matter, and by providing false information to his client about the reason for the court’s child support order; 3) providing false information to his client’s new counsel; 4) falsely communicating to his client about the services Polovina performed and the hours billed; 5) charging his client a fee for work not performed; and 6) failing to respond to

MORE ONLINE

Access further details of the notices by clicking the links in the online version: www.wabarnews.org
ODC’s request for a response to the grievance, and by failing to attend the deposition, as required by ELC 5.3(g) and ELC 5.5(d).

Henry Cruz acted as disciplinary counsel. Tarik Polovina represented himself. James D. Hicks was the hearing officer. The online version of *Washington State Bar News* contains links to the following documents: Hearing Officer’s Recommendation; Disciplinary Board Order Declining Sua Sponte Review and Adopting Hearing Officer’s Recommendation; and Washington Supreme Court Order.

**Reprimanded**

**Ari Rothman Goldstein** (WSBA No. 45993, admitted 2013) of Vancouver, was reprimanded, effective 1/18/2023, by order of the Chief Hearing Officer. Goldstein’s conduct violated the following Rules of Professional Conduct: 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 1.15A (Safeguarding Property), 1.16 (Declining or Terminating Representation), 3.2 (Expediting Litigation).

In relation to his representation of a client in a criminal law matter, Goldstein stipulated to reprimand for: 1) failing to deposit advance fees into a trust account when Goldstein did not have a fee agreement meeting the requirements of RPC 1.5(f)(2); 2) failing to appear at the case scheduling hearing prior to the court granting Goldstein’s motion to withdraw in a criminal proceeding; 3) failing to ensure the motion to withdraw was promptly filed while the client remained detained; 4) failing to reasonably communicate with the client regarding the scope of the representation in three court matters and by failing to provide the client the requested final financial accounting; and 5) failing to promptly refund unearned fees after the termination of representation.

Henry Cruz acted as disciplinary counsel. Ari Rothman Goldstein represented himself. The online version of *Washington State Bar News* contains links to the following documents: Order Approving Stipulation; Stipulation to Reprimand; and Notice of Reprimand.

**Notice of Hearing on Petition For Re reinstatement of Jeffrey Flint Renshaw**

A petition for reinstatement after disbarment has been filed by Jeffrey Flint Renshaw (WSBA No. 31124), who was admitted in 2001 and disbarred in 2013. A hearing on Renshaw’s petition will be conducted before the Character and Fitness Board on Friday, June 23, 2023. Anyone wishing to do so may file with the Character and Fitness Board a written statement for or against reinstatement, setting forth factual matters showing that the petition does or does not meet the requirements of Washington State Supreme Court Admission and Practice Rule (APR) 25.5(a). Except by the Character and Fitness Board’s leave, no person other than the petitioner or petitioner’s counsel shall be heard orally by the Board.

Communications to the Character and Fitness Board should be sent to Lisa Amatangel, Counsel to the Character and Fitness Board, Washington State Bar Association, at lisaa@wsba.org. This notice is published pursuant to APR 25.4(a).

**Interim Suspension**

**Ralph David Pittle** (WSBA No. 1194, admitted 1971) of Seattle, is suspended from the practice of law in the State of Washington pending the outcome of supplemental proceedings, effective 1/25/2023, by order of the Washington Supreme Court. This is not a disciplinary sanction. [WSBA member login required]
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Steven Blair has been voted in as shareholder at Schwabe, Williamson & Wyatt. Steven helps companies protect computer science innovations in the United States and overseas. His technology background and in-house experience with industry leaders enables him to counsel clients effectively in a rapidly changing landscape. Steven's practice focuses on patent procurement, patent infringement litigation, intellectual property licensing, audits, infringement and freedom to operate opinions, copyright registration and strategic portfolio management.

David Stearns has been voted in as shareholder at Schwabe, Williamson & Wyatt. David advises businesses on complex environmental and natural resource issues throughout the Northwest, helping them resolve disputes involving contaminated property, regulatory enforcement actions and water rights. David has helped clients through all phases of litigation, from administrative hearings to appellate courts.
MEDIATION (CONT.)

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POSITIONS AVAILABLE ADS ARE ONLINE

Job seekers and job posters, position available ads can be found online at the WSBA Career Center. To view these ads or to place a position available ad, go to https://jobs.wsba.org.

Special discount available through Dec. 31, 2023, for nonprofits, government, and small firms posting position available ads. Please contact Kale Gilbert at 860-544-2883 or kale.gilbert@communitybrands.com for more information on this discount. Free 30-day postings of jobs for legal professionals in “rural” areas are also available. To determine eligibility for a free posting, please contact memberbenefits@wsba.org with “RURAL EMPLOYMENT OPPORTUNITY” in the subject line.

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WILL SEARCH

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Robert S. Chang

BAR NUMBER: 44083

Robert S. Chang is a Seattle University School of Law professor and the founder and executive director of the Fred T. Korematsu Center for Law and Equality.

What is the most interesting case you have handled in your career so far and why? I was privileged to represent high school students in Arizona who successfully challenged a state law that was used to terminate the Mexican American Studies Program at the Tucson Unified School District. After a bench trial in 2017, the judge found that the law was enacted and enforced in violation of the students’ rights under the First and 14th Amendments. González v. Douglas, 269 F. Supp. 3d 948 (D. Ariz. 2017). This case was especially meaningful because I was horrified that Mexican American school children were told that their histories and stories did not belong in the classroom. In addition, this case is especially important because of the many laws passed or proposed in other states restricting the way race and history are taught.

If you could change one thing about the legal system, what would you change? I’d change the role the legal system has played in enabling mass incarceration by making it very difficult for courts to address racism in the criminal legal system, including the gross race disproportionality that exists in policing, prosecution, and punishment. I’m pleased, though, that Washington courts have been making meaningful changes to address racism and access to the courts.

How is being a lawyer different from the way you thought it would be? I didn’t know any lawyers growing up, so I had no idea what lawyers really did. I thought lawyers did what you see in movies or on TV or read about in books. And even though I began law teaching in 1992, I didn’t sit for my first bar exam until summer 2011. With assistance from experienced lawyers, we were able to launch a civil rights clinic in 2012. I quickly learned that the day-to-day of lawyering is not always as glamorous or as exciting as depicted in media, but practicing law is glorious and it’s fulfilling to serve clients who are seeking justice.

One thing that is as depicted is making an objection. I remember making my first objection during a trial. This was in 2017, and it’s like what you see in the movies and on TV. I jumped out of my chair to object. The judge looked at me and said, “On what grounds?” In my head, I was wondering why I needed a reason. It was objectionable. But the judge wanted grounds for the objection. So I looked at my Post-it note that listed common objections and blurted, “Asked and answered.” The judge thought about it and then sustained my objection. My next objection was another common one, “badgering.”

How did you become interested in your practice area? I became interested in civil rights work because of the racism I encountered as a child. This included an episode when I was in sixth grade when my classmates, for a month, called me epithets associated with my identity as Asian American. Nothing happened, the school did nothing, until I was called the N-word. Though I don’t know what it is like to be Black in America, I do know what it is like to be an other. This has motivated much of my work.

What did you eat for breakfast this morning? I had what I eat almost every morning: Cheerios, Heritage Flakes, blueberries, sliced banana, walnuts, almonds, and sunflower seeds. When I really want to mix things up, I sub strawberries for the banana.

What is one thing your colleagues may not know about you? I failed my freshman year swim test. It’s possible that I shouldn’t have earned my college degree. Please don’t tell anyone.

What is your favorite word? Pneumonoultramicroscopicsilicovolcanoconiosis. In the Ohio state spelling bee, I failed to advance because I misspelled “karst.” But if I’d been asked this other word, I would have advanced.

What is your favorite podcast? Strict Scrutiny.

What is the best fictional representation (TV, movie, book) of a lawyer? Extraordinary Attorney Woo. This Korean series features an early career lawyer on the autism spectrum who struggles to succeed and thrive.

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