

WASHINGTON STATE BarNews

THE OFFICIAL PUBLICATION OF THE WASHINGTON STATE BAR ASSOCIATION



2024-2025
WSBA
PRESIDENT

Sunitha Anjilvel

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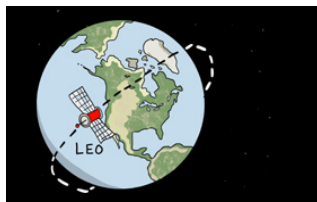


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Building community, consensus, and collaboration within the legal profession

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BEYOND THE BAR NUMBER Answer a Q&A

If you'd like to see yourself on the last page of an issue of *Bar News*, let us know! We would love to send you a questionnaire. wabarnews@wsba.org.

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'Community, Consensus, Collaboration'

Washington State Bar News will inform, educate, engage, and inspire by offering a forum for members of the legal community to connect and to enrich their careers.

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This month, we introduce a new president of the WSBA: Sunitha Anjilvel. President Anjilvel has been on the Board for two terms as governor, served on the Diversity Committee (now DEI Council), and written for this magazine on multiple prior occasions. The overarching theme of her presidency is "Building community, consensus, and collaboration within the legal profession." It's a fitting message for October, one month before Election Day. No matter our politics or beliefs, let us all try harder this year to respect each other and focus on our common ground. Read an interview with President Anjilvel on page 28, and look for her future President's Corner columns starting in November.

Kirsten Lacko is the editor of *Washington State Bar News* and can be reached at kirstenl@wsba.org.



ON THE COVER
Photo by Katina Ewing of Katina Arnott Photography

Also in this issue, an article about patenting inventions practiced in outer space (page 43), interviews with two people who came to the U.S. as refugees and now work in the Washington legal profession (page 38), an ethics column on dealing with unrepresented persons (page 18), a Member Wellness Corner column introducing a new resource entitled *The Law Firm Guide to Closing Your Practice: Guidance on the Right Time and Tools for Lawyers, Families, and Partners* (page 26), the 2023 Pro Bono Honor Roll—a list of folks who provided at least 50 hours of pro bono service last year (page 48), photos and bios for each member of the 2024-2025 WSBA Board of Governors (page 32), and more. **BN**

Guidance on the Right Time and Tools for Lawyers, Families, and Partners (page 26), the 2023 Pro Bono Honor Roll—a list of folks who provided at least 50 hours of pro bono service last year (page 48), photos and bios for each member of the 2024-2025 WSBA Board of Governors (page 32), and more. **BN**



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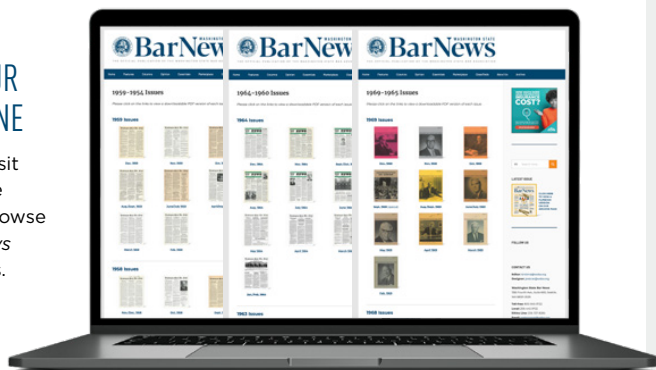
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*GR 12.2(c) states that the WSBA is not authorized to "(1) Take positions on issues concerning the politics or social positions of foreign nations; (2) Take positions on political or social issues which do not relate to or affect the practice of law or the administration of justice; or (3) Support or oppose, in an election, candidates for public office." In *Keller v. State Bar of California*, the Court ruled that a bar association may not use mandatory member fees to support political or ideological activities that are not reasonably related to the regulation of the legal profession or improving the quality of legal services.



Another Idea for the WSBA STAR Council

As a retired, now pro bono attorney¹ involved with access to justice, I follow with concern the issues and ideas to provide civil and criminal attorneys to the underserved rural areas ["Transforming Legal Deserts into Legal Oases," September 2024]. I propose that an additional modality be explored by the

STAR Committee [now STAR Council], Bar leadership, and our law school deans.

Provide a tuition-free route in our law schools, whereby students selected for such agree to serve as public defenders and civil

private attorneys (who will also take on some public defense in addition to their civil practice, for reduced rates and provide pro bono) in rural legal access-impaired areas for four years. The military provides free tuition for law school students who serve a requisite amount of years. Private benefactors have been in the news this past year, who have made tuition-free medical schools a reality. We've got wealthy

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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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Michael B. Goldenkranz
Seattle



Seattle's Gain, South Sound's Loss

I was a member of the Tacoma-Pierce County Bar and a tenant of the building adjacent to the University of Puget Sound (UPS) School of Law when it was sold to Seattle University in 1993. I was, therefore, curious to read about that sale, as recounted in a law review article by former Seattle University School of Law Dean Annette Clark: "What's Past is Prologue: The Story of the Sale of the University of Puget Sound School of Law to Seattle University," 46 *Seattle Univ. Law Rev.* 773 (2023).

In the April/May issue of *Bar News*, the WSBA's Margaret Morgan undertook to review Dean Clark's article, which describes the sale and the ways in which various interested parties reacted to it. I haven't yet read the law review article itself, and perhaps it covers my concern, but what's missing from Ms. Morgan's summary are the details of how the sale affected the South Puget Sound legal community.

The UPS School of Law was founded in Tacoma in 1972 and moved into freshly renovated quarters in downtown Tacoma

in 1980. (As I recall, Sen. Henry "Scoop" Jackson and Congressman Norm Dicks were present for the dedication ceremony; it was a big deal).

Having a law school south of Seattle and west of Spokane was a palpable boon to the surrounding communities. Many UPS law students got internships and part-time jobs with law firms and with public agencies such as the Attorney General's Office, local prosecutors and public defenders, legal aid societies, and the courts. After graduating, students tended to remain in the area as a handy recruitment pool for those same employers seeking to hire new lawyers.

With the sale, while Seattle got a second law school, the South Sound lost a significant chunk of an important resource. This is not to say that Seattle University law students and grads no longer populate the counties to the south; of course they do. But it is to point out the obvious: that Seattle-centric students are less likely to migrate out of town for jobs, whether internships or full-time employment. The Seattle legal community's gain was to some extent a loss for Tacoma, Olympia, Port Orchard, and surrounding areas.

Again, perhaps Dean Clark's law review article does cover this aspect of the sale. If so, I'm confident she did it well. I look forward to reading her article.

Mark Adams
Gig Harbor

NOTE

1. More information about WSBA emeritus pro bono license status can be found here: <https://wsba.org/for-legal-professionals/license-renewal/status-changes/emeritus-pro-bono-membership-and-return-to-active-membership>.



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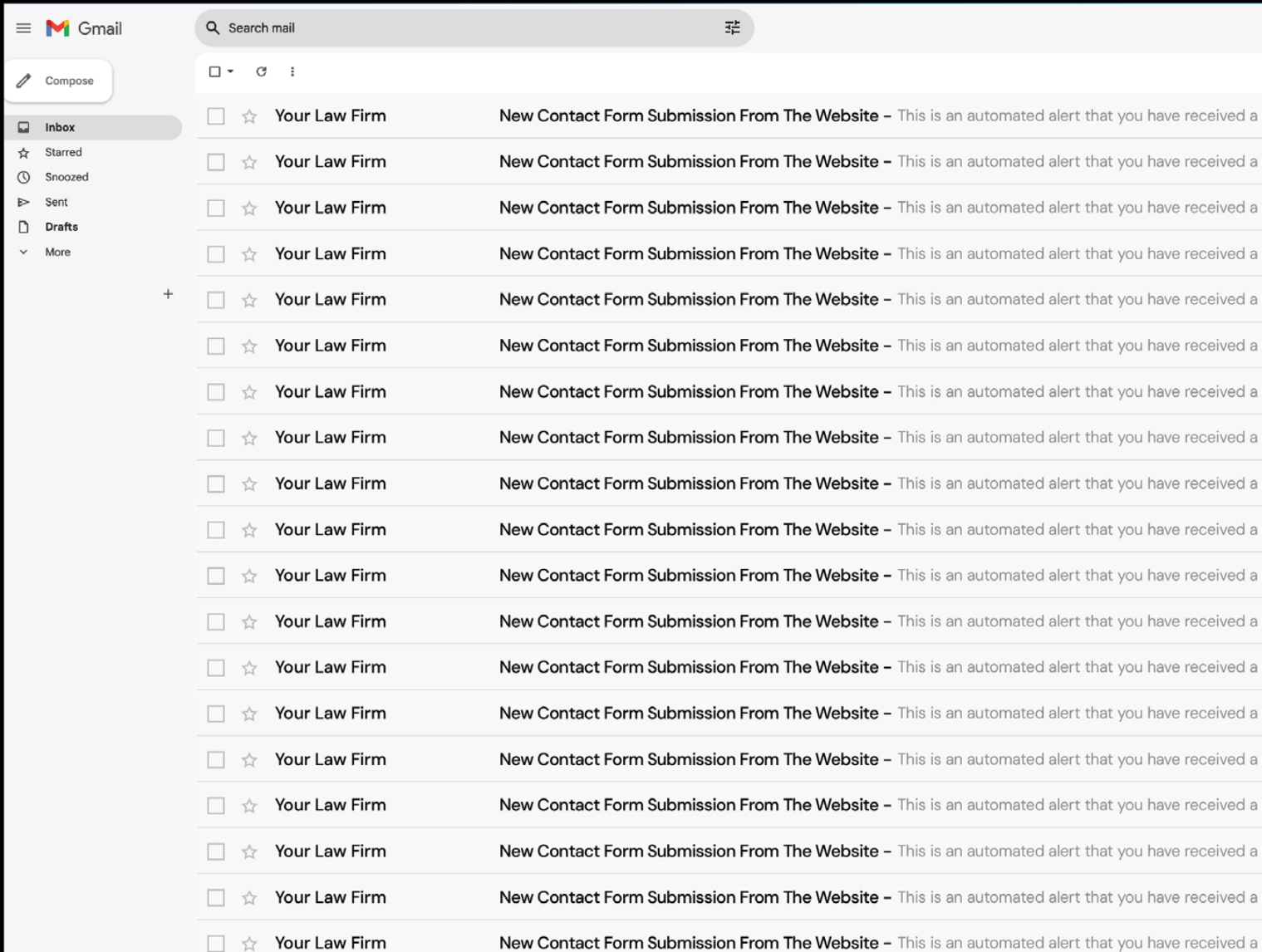
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NW Sidebar

THE VOICES OF WASHINGTON'S LEGAL COMMUNITY

Federal Court Orders Lawyer to Turn Over File to Former Client

The federal district court in Seattle recently had to order a lawyer to turn over a client's file to the former client involved. Before withdrawing in the face of a disqualification motion, the lawyer had formerly represented the plaintiff in *HTP, Inc. v. First Merit* [...]

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A Lot Has Changed in 100 years—What About Legal Service Delivery Models?

These are the questions behind a proposed pilot project to test entity regulation that is being advanced by leaders of the Practice of Law Board (POLB) and the Washington State Bar Association (WSBA). Under the court's guidance, the POLB has been working on this concept for years, and [...]

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The Deeper Meaning of Labor Day and How I Accidentally Rediscovered My Grandfather in Law School

Retired attorney Michael Goldenkranz reflects on his maternal grandfather's significant role in securing rights for union members, despite suffering personal and professional repercussions. Facing corruption within the painters' union, [...]

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A NOTE FROM THE WSBA EXECUTIVE DIRECTOR

Bringing New Legal Service Models Into the Fold of Regulation

Several weeks ago, the WSBA and Practice of Law Board (POLB) submitted a proposed order to the Washington Supreme Court that, if adopted, will authorize a pilot process to test entity regulation. What is entity regulation? It means, essentially, allowing companies or nonprofits to be licensed to offer legal services. Under our current regulatory framework, only individuals can be licensed to offer legal services. Our proposal is for a timebound, data-driven pilot that would allow such entities to apply to serve Washington clients under carefully monitored conditions, including court supervision. At the end of the pilot, the goal is to have sufficient data for the Washington Supreme Court to decide how to move forward (or not) with entity regulation. That might mean amending the Admission and Practice Rules (APR) and other court rules to make a more permanent pathway for new legal service models to be authorized in Washington; the court also might determine that entity regulation should not be pursued further.

The proposed order, and the possibility of licensing companies and nonprofits to provide legal services, has sparked some excitement, triggered some fears, and raised many questions. Of those questions, there is one in particular I think is important to address at this point: “Why isn’t the WSBA doing more to regulate the unauthorized practice of law in our state instead of throwing up its hands and resigning itself to its own ineffectiveness?”

One answer, as we have all seen, is that *some types of innovative service models already exist* (e.g., websites that help consumers complete a will or defend a ticket) and will certainly expand in scope and complexity in years ahead. Consumers are already expressing a preference for these types of tech-savvy legal models via the open market. So, we are at a regulatory crossroads—do something ... or sit back and watch?

The WSBA and POLB are squarely in the “do something” camp. By bringing nontraditional, innovative service models into the regulatory fold, we are creating the means by which the court can

exercise jurisdiction over them and can thus perform its most important regulatory duty—protecting the public.

How? Through licensing. It’s the strongest tool we have as a self-regulating profession. Through licensing, the court gains authority to protect the public—by virtue of being able to suspend or take licenses away. The POLB, of course, concerns itself with what happens outside the realm of licensing by referring complaints alleging the unauthorized practice of law to enforcement agencies. But there is good reason why POLB leaders have been on the forefront of advocating for testing entity regulation: They recognize how tremendously difficult, or even impossible, it is to try to protect the public from the unauthorized practice of law through rarely enforced civil and criminal penalties. Being a self-regulated profession relies on the core tenet that the court is in the best position to protect the public through its oversight of legal services;¹ if that is true—and I fervently believe it is—then we need to bring innovative service models into the fold of regulation.

Bottom line: Through granting a license, the Supreme Court gains authority.

We have seen this cautionary tale play out, with innovation outpacing regulation, when it comes to transportation network companies like Lyft and Uber operating with far fewer guardrails than their taxicab competition. Jurisdictions are struggling now to catch up—to “level the regulatory playing field,” if you will.²

We are not immune from having innovation outpace regulation in the legal industry, but I believe we are still out front. As long as a bar license carries legitimacy with Washington consumers, companies and other entities will be motivated to participate in the proposed pilot process and to subject themselves to a regulatory process that ensures proper oversight and protective measures, all in the public interest. If we do not move quickly to



Terra Nevitt

WSBA Executive Director

Nevitt can be reached at terran@wsba.org or 206-727-8282.

We are at a regulatory crossroads—do something ... or sit back and watch?

MORE ONLINE

Find information about the proposed pilot project to test entity regulation, including:

- **Read the draft order** submitted to the Washington Supreme Court for consideration.
- **Learn more** about entity regulation in general, including a video interview with leaders of the WSBA and Practice of Law Board.
- **Stay updated** in the months ahead, as the court considers the draft order.

Please visit the webpage, www.wsba.org/pilot-project.

capitalize on the public's perception that a court-awarded license legitimizes provision of legal services, we run the risk of, at best, perpetually playing catchup with innovation or, at worst, regulating ourselves into irrelevancy.

As a legal community, we all understand there are deep justice gaps, and I believe we share a desire to close those gaps—for all those who can't afford or can't access legal help within our existing models of legal service.

Society at large has changed so much in terms of how we deliver services, from shopping to education to healthcare to travel. These changes have positive as well as negative aspects. And yet they continue. I am curious, can we manage that change in the delivery of legal services? What might happen if we harness some of the power of innovation for people most in need of legal help? That question warrants enough curiosity on my part to test it out. I hope it does for you, too. **BN**

NOTES

1. www.courts.wa.gov/court_rules/pdf/RPC/GA_RPC_PREAMBLEANDSCOPE.pdf.
2. www.its.ucla.edu/publication/tnc-case-for-leveling-regulatory-playing-field/.

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Treasurer's Report

Introducing Your 2024-2025 Finance Team

It is my great pleasure to serve as the Washington State Bar Association treasurer for FY 25. Since 2022, I have served as the Board's District 2 Governor. I obtained my undergraduate degree in criminal justice and international management from Gustavus Adolphus College in St. Peter, Minnesota, and then obtained my J.D. from Seattle University School of Law. I have been a solo attorney in Mukilteo since 2015. In the 13 years prior to starting my own firm, I worked in several small firms in Everett. I have primarily been a civil litigator with significant experience in the areas of juvenile law, guardianships, estate planning, elder law, and family law. Over the years, I have also served as a volunteer and attorney guardian ad litem for dependent children and currently am one of the Snohomish County CASA Program attorneys. Throughout my career, I have also served on many nonprofit boards, and other bar boards as president, co-chair, secretary, and treasurer.

For over six years, I have served as treasurer on several bar boards, both in Snohomish County and at the state level. During my term as treasurer in these organizations, I have created budgets and overseen the investment of money into various accounts, creating substantial income for the various organizations. I have also had to make difficult decisions when membership dues were not enough to cover expenses. Based on my roles as treasurer in these organizations, I was happy to be chosen to serve on the WSBA Budget and Audit Committee the past two years. This has allowed me to gain insight into our organization's budget process, which allows me to be well versed in examining the WSBA budget and commenting on ways the WSBA can stay within its means and leverage the assets we have. My approach and goal as treasurer will be to work with the WSBA Budget and Audit Committee in a manner that examines the information needed for the committee to make the best decisions for the WSBA and its members, and encourage the Board, executive leadership team, volunteers, and all WSBA members to abide by the WSBA fiscal policies.

Throughout my career while serving on county, state, and nonprofit boards, I have been fiscally prudent. The WSBA is an organization for the members and run by the members. It is you, WSBA members, who provide the revenue required for the organization to function and operate each year. I am fully committed to diligently serving as a good steward of the WSBA's finances. **BN**



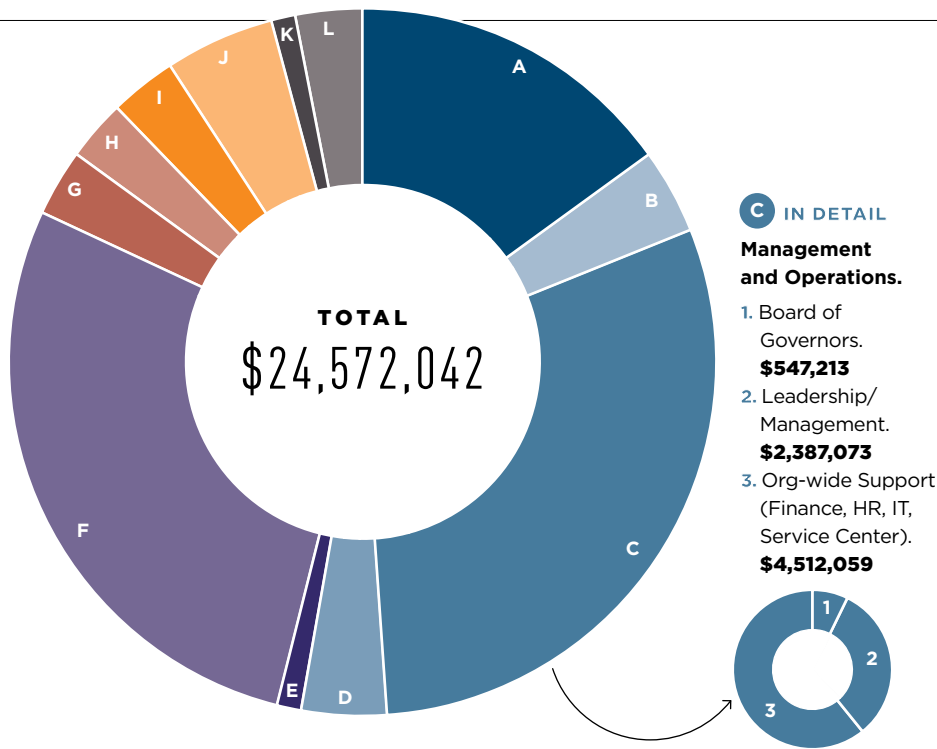
Kari Petrasek
WSBA Treasurer

Kari Petrasek is the WSBA treasurer and District 2 governor and can be reached at kari@petraseklaw.com.



Tiffany Lynch
Director of Finance

Tiffany Lynch can be reached at TiffanyL@wsba.org.



FISCAL YEAR 2025 BUDGET

General Fund Expenses by WSBA Programs & Services

A 15% **Licensing and Admissions Services.** Costs to administer admissions and annual licensing processes for nearly 40,000 WSBA members including lawyers, LPOs, and LLLTs; to maintain and respond to questions about members and their public information; and to support the Supreme Court-mandated MCLE Board, which adjudicates issues involving continuing legal education requirements. **\$3,621,229**

B 4% **Outreach and Engagement.** Supports WSBA outreach to the public, legal professionals, bar associations, policymakers, and others in order to enhance volunteer recruitment, raise awareness and understanding of WSBA programs and priorities, and create a sustainable network. **\$961,677**

C 30% **Management and Operations.** Includes costs associated with the WSBA Board of Governors, leadership, management, and internal support (finance, technology, human resources, etc.). **\$7,446,345**

D 4% **General Counsel.** Legal representation and support to the WSBA, the Board of Governors, and other boards, task forces, and committees; records requests and litigation management; and oversight, interpretation, and analysis of WSBA Bylaws and other legal issues. **\$1,028,444**

E 1% **Legislative and Law Improvement Efforts.** Supports work with WSBA leadership and sections to formulate positions on legislation, track relevant legislation during session, and provide technical advice on bills and existing statutes to the Legislature. **\$280,573**

F 28% **Discipline and Disability Systems.** Costs to handle consumer inquiries; to investigate, prosecute, and adjudicate written grievances about lawyers, LPOs, and LLLTs (e.g., costs associated with disciplinary counsel, hearing officers, and the Supreme Court-mandated Disciplinary Board); to administer the WSBA audit program; and to educate members and law students about legal ethics, trust account compliance, and the discipline system. **\$6,818,799**

G 3% **Publications.** This category includes costs to develop, design, produce, and distribute WSBA print media and publications, including *Washington State Bar News*, the WSBA's official publication. **\$843,156**

H 3% **Supreme Court-Mandated Boards and Programs.** Costs to support four of six boards and programs mandated by the Supreme Court: (1) Access to Justice Board; (2) Limited License Legal Technician Board; (3) Limited Practice Officer Board; and (4) Practice of Law Board. Costs associated with the Disciplinary Board and MCLE Board, which adjudicate regulatory issues, are included in the Licensing and Admissions Services and Discipline and Disability Systems categories. **\$742,774**

I 3% **Member Benefits.** Includes costs of programs benefiting the WSBA's membership as a part of their annual license fee: (1) legal research tool (Fastcase); (2) monthly CLE programs (Legal Lunchbox™ Series); (3) the Professional Responsibility Program; (4) the Member Wellness Program; and (5) a confidential 24/7 member assistance program. **\$729,340**

J 5% **Public Service, Diversity, and Washington State Bar Foundation Support.** Costs to support (1) WSBA public service programs (including Moderate Means Program, the Powerful Communities Project, and the Pro Bono WA portal); (2) work to advance diversity and inclusion in the legal profession; and (3) administrative costs of the Washington State Bar Foundation, which provides grant funding for these activities. **\$1,160,704**

K 1% **Sections Administration.** Includes staffing and administrative costs to support 29 sections, and to help sections develop "mini-CLEs" that are not offset by per-member charge revenues. **\$299,310**

L 3% **Member Services and Engagement.** Includes costs of outreach, education, training, and support to newly admitted WSBA members. Also includes funding for the WSBA's mentor programming. **\$639,690**

The Nature of Justice

Unpacking the histories and complexities of a cardinal ideal

What is justice? Certainly, each of us hopes that our personal compass leads us toward it. Yet, how often do we pause to reflect upon this ideal? How would we define it if pressed? What is justice *really*? And what is justice not?

This new column will explore models of justice, histories of justice, and the experiences and movements that shape our impression of justice in various ways. Essentially, it will examine the nature of justice—at least as understood by the different people and communities that have thought about and sought to practice it.

Because we are exploring the “nature of justice,” it might make sense to begin by asking: “What is the role played by nature in justice?” Ask somebody raised in a modern democratic state, and particularly somebody familiar with western jurisprudence, and they might respond: “Not much.” To understand why, we can look to the influence of a few key factors: Roman law, Christian morality, and especially the philosophy of Plato.

It may be confusing to read that our secular view of justice as it is framed and practiced today—which entails a separation of church and state—is influenced by Christian theology. It may also be surprising to consider how just a few centuries before Plato, and before the central books of the Old Testament were taking shape, classical thinkers understood justice (and injustice) in vastly different terms.

In public consciousness during the “Homeric” age in Greece (i.e., the time of Homer), there was little separating human action from influences outside of the “self.” Classicist Arthur W.H. Adkins notes that during this time, in the Greek language, “there is no word for the body as a whole.”¹ Furthermore, one’s *psyche*, translated as “soul,” was not coterminous with one’s “self” or “personality.”²

Rather, the human psyche actually connoted an aggregate of agents both inside and outside of the body, including natural forces and the will of the gods. In fact, nature was understood to include divine influences—there was no clear separation between the categories of “nature” and “gods.” And the “self” *itself* was very tenuous and fuzzy.

There are similarities between this type of worldview and those taken by other Indigenous communities:

The ethnography of indigenous America is replete with references to a cosmopolitical theory describing a universe

inhabited by diverse types of actants or subjective agents, human or otherwise—gods, animals, the dead, plants, meteorological phenomena, and often objects or artifacts as well ...³

During the time of Homer, because there was little space for personal agency or will in comprehending human action, justice referred neither to one’s “intentions nor [their] efforts, but their results,” and it was closely linked with what we might call honor.⁴ By extension, what was considered just or unjust implicated a sort of natural (as well as divine) order of things. In *The Iliad*, for example, Achilles is compelled into battle, driven by vengeance and grief, when his friend Patroclus is killed. Justice and honor are realized when Achilles stabs Hector of Troy in the throat, a victory won in part through the intervention of the goddess Athena.

The time around 500 B.C.E. in Greece saw the emergence of a group of philosophers known as Sophists who rethought justice in interesting ways. While Plato would later depart radically from the Sophists on many issues, portraying Socrates as a philosopher who cleverly exposed their myriad faults (this is when “sophist” became an insult), the Sophists set the groundwork for later developments by distancing the concept of justice from nature.

As justice became more “social” and subjective, being anchored in the values of communities, Protagoras famously proclaimed: “The human is the measure of all things.” It was also during this time that Greek philosophy started to see a stronger and more bounded sense of self emerge, a trend that was also carried further by Plato.

Plato’s view of justice differed from the Sophists in that he took justice to be absolute, unchanging, and eternal rather than situational or contingent. It exists, for Plato, in the realm of ideas or forms “behind appearances,” or beyond what we can touch, feel, sense, or see. This makes justice about as removed from nature as it can get!

The idea of the personal, bounded self, with the capacity to will and reason, had become solidified by the time of Plato’s writing, and he helped reinforce it. Indeed, it is this position that allows Plato to argue that human beings can reason toward justice and then choose to act



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accordingly—i.e., in ways that are just.

This lays a foundation for righteousness as a guiding social ideal and for the ability to discriminate between the guilty and the innocent, a foundation which had a strong influence on Roman law. Centuries later, the Roman legal system would serve as direct inspiration for the forms of democratic government created in Western Europe by emerging modern states, that—through the violence of colonialism and processes of formal decolonization—would spread them.

Plato's writings also influenced Christian theology, which through its Jewish heritage was already receptive to treating righteousness (in this case, according to one's faith in God) as paramount. Consider the similarities, for example, between a Platonic

tional deliberation or the practice of faith, we can apply abstract principles to our personal and interpersonal conduct), and largely as relevant to human or social concerns alone.

While this framework for justice emphasizes our responsibility, perhaps, to our own conduct and to each other (i.e., we are kept from using “nature” or “gods” as scapegoats), are there downsides as well? Animal rights advocates and environmental lawyers might, for obvious reasons, object to keeping nature out of justice's realm of consideration. What might it mean to extend rights to nonhuman agents such as animals⁶ or even rivers and trees?⁷ To attempt to do justice to nature *per se*?

Beyond this, are there contradictions in our treatment of justice as universal?

etzsche, in a very different context but with rather similar language, writes: “All naturalism in morality, that is all healthy morality, is dominated by an instinct of life”⁹ and “[r]ationality at any cost... has itself been no more than a form of sickness, another form of sickness, and by no means a way back to ‘virtue,’ to ‘health,’ to happiness.”¹⁰

Is it valuable to rethink the role of nature or even spirituality in justice? Is it possible to do so without abrogating civic responsibility or investing deeply (as the Homeric Greeks appeared to do) in a politics of honor? And what would a reimagined practice of justice entail?

How radically is justice transformed by the models of deliberative, restorative, reparative, and transitional justice (approaches that will make their appearance in future columns)? By advocates of disability justice, who, among other critiques, challenge the ways that the law defines a rational human being and a mind capable of reason? By environmental justice activists, who center the interconnections between social equity and ecological well-being? Or by the actions of other communities and individuals engaged in creative practices of empowerment?

While these are lofty sorts of questions, perhaps there is value in pondering them. Even the strongest compasses, after all, may benefit occasionally from recalibration. [BN](#)

This new column will explore models of justice, histories of justice, and the experiences and movements that shape our impression of justice in various ways.

reading of justice and the lessons imparted by the Book of Job in the Old Testament.

After suffering constant misfortune at the hands of God, including losing wealth and family to violent attackers and natural disasters, Job, a righteous man, questions God's sense of justice. God's lesson in this parable, as paraphrased by philosopher David Daiches Raphael is:

[T]o put away the illusion of a just order of nature. The forces of nature display power, power that goes far beyond what a human being can do; but they do not follow morality If one is to remain religious, as Job is apparently ready to do, reverence for God must be based on his creative power, not on his justice—or on what we would suppose to be justice.⁵

Although acting righteously for a Platonist would look different than for a Christian, determinations of justice in both cases are put in the hands of human society. This is significant: It has left us with a framework for thinking about justice as impartial (not driven by the chaotic whims of nature or caprices of the body), as universal (through ra-

Do other moral and cultural traditions imply different just outcomes than those that emerge from a modern, western perspective? And how do we grapple with the longstanding, democratic histories of rights and justice remaining restricted to certain groups alone? Or the present-day structures of power and privilege that a language of universality might obscure?

If there is a risk of overprivileging universality, the same may be said for reason or the rationality of the law. In some ways, overprivileging reason may cause us to neglect the biases and emotions that play into our (seemingly neutral) legal appraisals. In others, it may cause us to push down “gut feelings” in our adherence to the law, especially when the law furthers suffering and oppression.

Something of this sort was voiced by Martin Luther King Jr., who—to counsel civil disobedience—implored: “Any law that uplifts human personality is just. Any law that degrades human personality is unjust. All segregation statutes are unjust because segregation distorts the soul and damages the personality.”⁸

It is likewise voiced when Friedrich Ni-

NOTES

1. Arthur W.H. Adkins, *From the Many to the One: A Study of Personality and Views of Human Nature in the Context of Ancient Greek Society, Values, and Beliefs* (Cornell University Press, 1970), 21.
2. *Id.* at 14.
3. Eduardo Viveiros de Castro, *Cannibal Metaphysics: For a Post-Structural Anthropology* (Univocal, 2014), 56.
4. Adkins, *From the Many to the One*, 41.
5. David Daiches Raphael, *Concepts of Justice* (Clarendon Press, 2001), 17.
6. Tom Reagan, *The Case for Animal Rights* (University of California Press, 1983).
7. Christopher D. Stone, *Should Trees Have Standing? Law, Morality, and the Environment* (Oxford University Press, 2010).
8. Martin Luther King, Jr., “Letter from a Birmingham Jail” (1963).
9. Friedrich Nietzsche, *Twilight of the Idols* (in *Twilight of the Idols and The Anti-Christ*, Penguin Classics, 1990), 44.
10. *Id.* at 55.



RPC 4.3: *Dealing With Unrepresented Persons*

BY MARK J. FUCILE

Dealing with unrepresented persons is so common across practice areas that we rarely stop to think about it. For example, we could be handling a pro bono matter for a tenant and interfacing with an unrepresented landlord. In another circumstance, we may be contacting an unrepresented fact witness. With an unrepresented party or witness, our conduct is guided by RPC 4.3, which is titled “Dealing With Person Not Represented by a Lawyer.”

In this column, we’ll survey three aspects of Washington RPC 4.3. First, for context, we’ll briefly summarize the history of the rule, which differs somewhat from its ABA Model Rule counterpart. Second, we’ll examine the broad contours of the rule. Finally, we’ll discuss the risks the rule presents to lawyers and their law firms—and how to lessen those risks.

Before we do, two qualifiers are in order.

First, other rules often enter the mix when dealing with unrepresented persons.

RPC 4.1, for example, prohibits lawyers from making material misrepresentations in the course of representing clients.¹ Similarly, RPC 4.4 addresses the rights of third persons—including those who are unrepresented.²

Second, RPC 4.3 is predicated on a lawyer “dealing on behalf of a client[.]” In other words, it only applies in representational contexts.³

HISTORY OF THE RULE

The ABA adopted Model Rule 4.3 in 1983 as a part of the original set of ABA Model Rules.⁴ The predecessor ABA Model Code had a rule simply prohibiting lawyers from “[g]iv[ing] advice to a person who is not represented by a lawyer, other than the advice to secure counsel, if the interests of such person are or have a reasonable possibility of being in conflict with the interests of his client.”⁵ In its original formulation, ABA Model Rule 4.3 focused on ensuring that a lawyer did not “state or imply that the lawyer is disinterested” and imposed a duty to correct misunderstandings in that regard “[w]hen the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer’s role in the matter[.]”⁶ As part of the ABA’s comprehensive revisions to the Model Rules developed by the ABA Ethics 2000 Commission, a second concept was added to the rule in 2002: “The lawyer shall not give legal advice to an unrepresented person, other than the advice to secure counsel, if the lawyer knows or reasonably should know that the interests of such a person are or have a reasonable possibility of being in conflict with the interests of the client.”⁷ Accompanying Comments 1 and 2 were adopted in, respectively, 1983 and 2002, reflecting those twin elements.⁸

Washington RPC 4.3 followed a generally similar arc—but with a few Washington-specific modifications.

Washington adopted the then-ABA Model Rule in 1985 when moving from the former Code of Professional Responsibility to RPCs patterned on the ABA Model Rules.⁹

In 2002, Washington added a unique section to the rule addressing limited scope representations—and associated criteria for assessing whether someone in that context was represented—as part of a package of amendments to the RPCs and the superior

court rules intended to encourage limited scope representations to expand access to the legal system.¹⁰ The 2002 amendments generally classified a person being advised in a limited scope representation as “unrepresented” unless the opposing lawyer knew of or had been provided with written notice of representation.¹¹ If aware of the written notice, the opposing lawyer was required to communicate within the limited scope representation through the lawyer representing the person in that matter.¹²

In 2006, the Washington Supreme Court adopted a comprehensive set of amendments proposed by the WSBA Ethics 2003 Committee that followed on the work of the ABA Ethics 2000 Commission.¹³ The 2006 amendments added the ABA Model Rule provision noted earlier addressing legal advice to an unrepresented person and moved the 2002 Washington amendment on limited scope representation from the text of the rule to a new Comment 3.¹⁴

There is often an inherent whiff of misrepresentation if a lawyer knowingly fails to correct an unrepresented person’s misperception of the lawyer’s role.

Further amendments to the rule and accompanying comments were adopted in 2015 and 2019 to reflect Washington limited license legal practitioner (LLLT) practice.¹⁵ Most significantly in this regard, Comment 5 was added to clarify that a person assisted by an LLLT is considered “unrepresented” as that term is used in the rule: “For purposes of this Rule, a person who is assisted by an LLLT is not represented by a lawyer and is an unrepresented person.”¹⁶ Reflecting this distinction, the title of the Washington rule was changed to “Dealing With Person Not Represented by a Lawyer” from the ABA formulation of “Dealing with Unrepresented Person.”¹⁷

CONTOURS OF THE RULE

Washington RPC 4.3 reads:

In dealing on behalf of a client with a person who is not represented by a lawyer, a lawyer shall not state or imply that the lawyer is disinterested.

When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer’s role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding. The lawyer shall not give legal advice to an unrepresented person, other than the advice to secure the services of another legal practitioner, if the lawyer knows or reasonably should know that the interests of such a person are or have a reasonable possibility of being in conflict with the interests of the client.

As noted earlier, RPC 4.3 reflects two overarching concepts.

First, a lawyer cannot state or imply that the lawyer is disinterested and must correct an unrepresented person’s misunderstanding of the lawyer’s role. Comment 1 to RPC 4.3 counsels that this element is ordinarily met by “identify[ing] the lawyer’s client

and, where necessary, explain[ing] that the client has interests opposed to those of the unrepresented person.” This facet of the rule is intended to prevent lawyers from taking advantage of unrepresented persons who may be confused about the lawyer’s role in a matter.¹⁸

Second, a lawyer cannot give an unrepresented person legal advice—other than to get a lawyer (or depending on the circumstances, an LLLT)—if “the interests of such

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a person are or have a reasonable possibility of being in conflict with the interests of the client.” Comment 2 to the rule explains that the qualifier reflects “the possibility that the lawyer will compromise the unrepresented person’s interests” absent an outright prohibition. That said, Comment 2 goes on to note that a lawyer is not prohibited from negotiating on behalf of a client with an unrepresented person as long as “the lawyer has explained that the lawyer represents an adverse party and is not representing the person[.]”^{19, 20} Beyond the qualifier in the rule, prudent risk management counsels against providing legal advice to an unrepresented person to avoid having that person claim later that an attorney-client relationship was formed and possibly creating a disqualifying conflict or other duties as a result.²¹

RISKS

The risks flowing from RPC 4.3 are many and varied.

Lawyers regionally and nationally have been disciplined under both principal elements of the rule.²² In *In re Klemp*, 418 P.3d 733 (Or. 2018), for example, a lawyer was disciplined for failing to correct an unrepresented person’s misunderstanding that the lawyer was also representing that person when obtaining a power of attorney for the sole benefit of the lawyer’s client. In *State ex rel. Oklahoma Bar Ass’n v. Berry*, 969 P.2d 975 (Okla. 1998), a lawyer was disciplined for providing legal advice to a *pro se* bankruptcy petitioner that benefited the lawyer’s creditor client. *Berry* also illustrates that while disciplinary prosecutions based solely on RPC 4.3 are comparatively rare, those based on alleged violations of RPC 4.3 and rules prohibiting misrepresentation—such as RPCs 4.1 and 8.4 (which the lawyer in *Berry* was also found to have violated)—are more common because there is often an inherent whiff of misrepresentation if a lawyer knowingly fails to correct an unrepresented person’s misperception of the lawyer’s role.

Beyond discipline, violations of RPC 4.3 have also led to sanctions and disqualification.²³ Less frequently, transactions have been rescinded citing, in relevant part, RPC 4.3 for what in contractual terms amounts to fraud in the inducement.²⁴ Although

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claims for legal malpractice and breach of fiduciary duty are raised occasionally in this context, they typically face a difficult legal road because those are generally reserved to clients rather than non-clients.²⁵ By contrast, if an unrepresented person proves that an attorney-client relationship was formed by virtue of the lawyer's advice, that supplies a key element for claims of legal malpractice and breach of fiduciary duty.²⁶

Three practical approaches can greatly lessen regulatory and civil risk in this area.

First, clarify at the outset that the person involved is, in fact, unrepresented.²⁷ While RPC 4.3 may not be a staple of regulatory grievances, the "no contact" rule—RPC 4.2—applicable to represented persons is a frequent source of complaints.²⁸ Equally important, memorialize the fact that the person is unrepresented as circumstances dictate. In some instances, such as a short call with a tangential witness, a quick file note may be sufficient. In others, such as an unrepresented party opponent, a letter or email documenting that fact provides better contemporaneous proof if there are issues later.

Second, as Comment 1 to RPC 4.3 counsels, clearly identify who you are and who you represent at the outset. Again, the method chosen to memorialize that communication will vary with the circumstances and the potential role of the person being contacted. A contemporaneous written document, however, can be a key piece of evidence if an unrepresented person claims confusion later.

Third, as noted earlier, while the prohibition on legal advice in the rule is limited to situations where your client has interests potentially adverse to those of the unrepresented person, a safer practical course is simply not to provide any legal advice to unrepresented persons to avoid both the strictures of the rule and a later claim that an attorney-client relationship was formed as a result. [BN](#)

third-party legal rights). *Newman v. Highland School Dist.* No. 203, 186 Wn.2d 769, 381 P.3d 1188 (2016), addresses the boundaries of the attorney-client privilege when interviewing unrepresented former employees. On this last point, RPCs 4.2 and 4.3 can present complex issues of professional ethics, work product, and privilege when contacting current or former employees of a represented organization (and, relatedly, whether it is permissible to discourage an unrepresented person from talking to opposing counsel). These complicated issues are beyond the scope of this column, and we'll save them for another day.

3. Interpreting the similar phrase "in representing a client" in RPC 4.2, the Washington Supreme Court in *In re Haley*, 156 Wn.2d 324, 126 P.3d 1262 (2006), found that a *pro se* lawyer fell within that term because he was representing his own interests. Nonetheless, this remains an unresolved issue in the context of RPC 4.3 in Washington and there is conflicting authority nationally on this point. See *ABA Annotated Model Rules* at 522.
4. See generally *ABA, A Legislative History: The Development of the ABA Model Rules of Professional Conduct, 1982-2013* (hereafter *ABA Legislative History*) at 571-73 (2013) (surveying history of the ABA Model Rule). See also *Restatement (Third) of the Law Governing Lawyers* § 103 (2000) (addressing similar considerations).
5. ABA Model Code of Professional Responsibility DR 7-104(A)(2). See also former ABA Canons of Professional Ethics, Canon 9 (counseling lawyers not to advise unrepresented negotiating counterparties on the law).
6. *ABA Legislative History* at 571-73.
7. *Id.* at 573-75.
8. *Id.* at 571, 573.
9. See Robert H. Aronson, "An Overview of the Law of Professional Responsibility: The Rules of Professional Conduct Annotated and Analyzed," 61 *Wash. L. Rev.* 823, 877-78 (1986) (discussing Washington's adoption of the ABA Model Rules).
10. See Barrie Althoff, "Ethical Issues Posed by Limited-Scope Representation—The Washington Experience," 2004 *Prof. L.* 67, 82-83 (2004) (describing Washington's efforts to expand limited scope representation). Washington Advisory Opinion 202002 (2020) also discusses this history in the context of lawyer "ghostwriting" for *pro se* parties in state court litigation.
11. See note 10, *supra*.
12. See note 10, *supra*. The ABA took a similar approach in Formal Opinion 472 (2015).
13. Washington Supreme Court Order 25700-A-851, July 10, 2006.
14. See WSBA, *Reporter's Explanatory Memorandum to the Ethics 2003 Committee's Proposed Rules of Professional Conduct* at 188-89 (2004) (on file with author).
15. Washington Supreme Court Orders 25700-A-1096, Mar. 23, 2015, and 25700-A-1258, May 1, 2019. Comment 6 to RPC 4.3 counsels, however, that a lawyer should not improperly invade privilege through this otherwise permitted contact. LLLT RPC 4.3, in turn, addresses this area from the LLLT perspective.
16. Washington Supreme Court Order 25700-A-1096, *supra* note 15, at App. 57.
17. *Id.* at 55.
18. See *ABA Legislative History* at 572.
19. Comment 2 to RPC 4.3 also observes that the propriety of advising an unrepresented person may depend on the experience and sophistication of the person. The *ABA Annotated Model Rules* contain an extensive discussion of this point from a national perspective at 523-24.
20. Comment 4 to RPC 4.3 notes that government lawyers are sometimes called on to provide general information on laws and procedures to unrepresented persons. Comment 4 states that "such general information by government lawyers is not a violation of this Rule."
21. See generally *Bohn v. Cody*, 119 Wn. 2d 357, 363, 832 P.2d 71 (1992) (standard for determining whether attorney-client relationship formed); see also WSBA Advisory Ops. 201902 (2019) (addressing RPC 4.3 in the context of subrogation claims) and 1601 (1995) (discussing practical constraints on answering a witness's legal questions to avoid disqualifying conflicts).
22. See generally *ABA Annotated Model Rules* at 520-28 (compiling cases).
23. See, e.g., *Marino v. Usher*, 673 Fed. App'x 125, 131-33 (3d Cir. 2016) (sanctions); *Sisk v. Transylvania Community Hosp., Inc.*, 695 S.E.2d 429, 431-37 (N.C. 2010) (disqualification).
24. See, e.g., *Hopkins v. Troutner*, 4 P.3d 557 (Idaho 2000) (rescinding settlement agreement). But see *DKS Ventures, LLC v. Kalch*, 2011 WL 4829724 at *4 (E.D. Wash. Oct. 12, 2011) (unpublished) (enforcing forum selection clause over objection based on RPC 4.3).
25. See, e.g., *Dickson-McFerran Properties v. Mackie*, 1997 WL 633947 at *6 (Wash. Ct. App. Oct. 10, 1997) (unpublished) (dismissing non-client claims relying on RPC 4.3); *Durante v. Martinez*, 2012 WL 3517592 (Conn. Sup. Ct. July 12, 2012) (unpublished) (same); see generally *Trask v. Butler*, 123 Wn.2d 835, 872 P.2d 1080 (1994) (addressing standards for claims by non-clients against lawyers); *Hetzl v. Parks*, 93 Wn. App. 929, 971 P.2d 115 (1999) (same).
26. See generally *Hizey v. Carpenter*, 119 Wn.2d 251, 830 P.2d 646 (1992) (legal malpractice); *Eriks v. Denver*, 118 Wn.2d 451, 824 P.2d 1207 (1992) (breach of fiduciary duty).
27. See WSBA Advisory Op. 1990 (2002) (recommending clarification); see also *In re Carmick*, 146 Wn.2d 582, 597-98, 48 P.3d 311 (2002) (lawyer cannot ignore the obvious in terms of whether a person is represented).
28. The WSBA has a disciplinary notice database on its website that is searchable by RPC. A simple search of RPC 4.2 yields many results.

NOTES

1. For a discussion of the interplay between Rules 4.1 and 4.3, including social media contexts, see *ABA, Annotated Model Rules of Professional Conduct* (hereafter *ABA Annotated Model Rules*) at 521-22 (10th ed. 2023) (compiling authorities nationally).
2. See *ABA Annotated Model Rules* at 530-42 (cataloging interactions that amount to harassment or other improper invasions of

FIGHTING FOR YOU, SO YOU CAN FOCUS ON WHAT MATTERS MOST

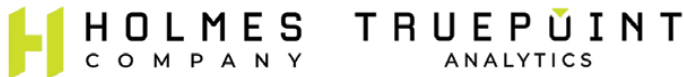
"The Stritmatter Firm made sure we knew **we mattered** and our feelings were not pushed to the side. We can't stress enough how much we appreciate them" - M.D.

Legal Team: Andrew Ackley



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Stritmatter
KESSLER KOEHLER MOORE



Is pleased to announce a Multnomah county jury agreed with my testimony and awarded the Plaintiffs \$65.5 million.

John M. Marshall, et al
vs.
Pricewaterhouse Coopers LLP ("PwC")

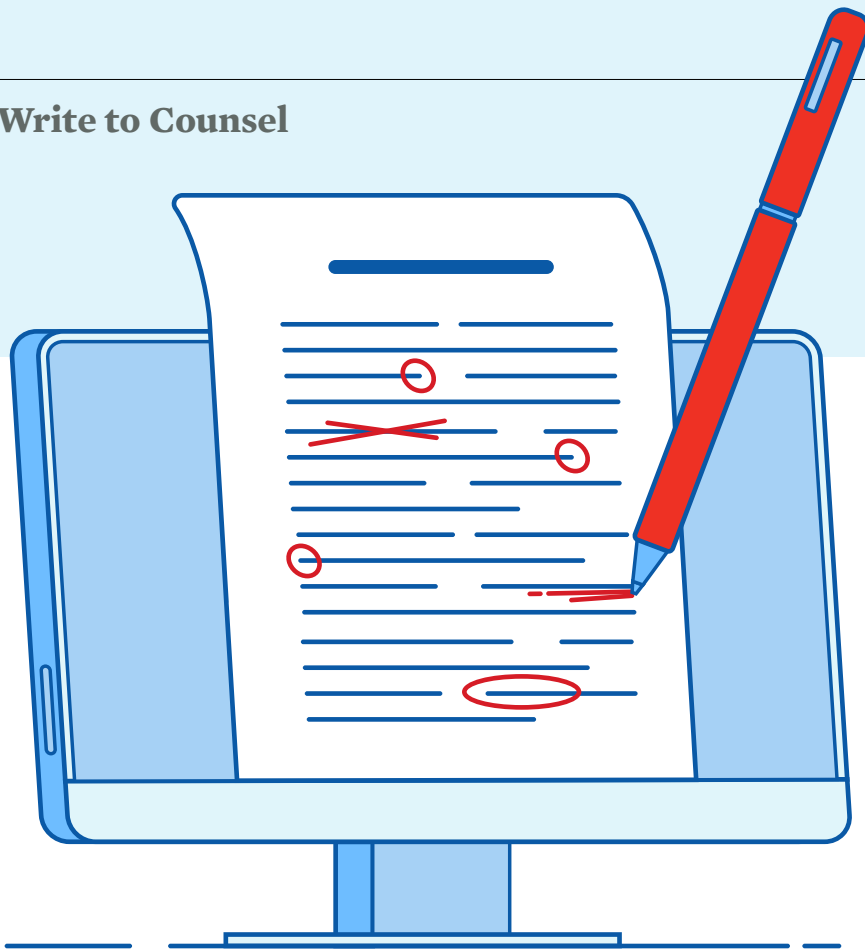
Testifying expert for the Plaintiffs regarding claims PwC violated the applicable Standards of Care for Certified Public Accountants in connection with services rendered to client. Result: Jury verdict in favor of the Plaintiffs, total damages of \$85.5 million, and \$65.5 million apportioned to the Plaintiffs.

William N. Holmes, CPA / ABV / CVA / CFE

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Drafting Transactional Documents and **AVOIDING AMBIGUITY**

BY MIREILLE BUTLER

In the realm of legal practice, drafting transactional documents that are clear and unambiguous is paramount. The primary objective is to ensure that all parties involved understand the terms and obligations without misinterpretation. A well-written provision is one that provides no traction for either party to argue that something else was intended, and it is usually possible to make a provision more precise and thus resistant to aggressive interpretations. This article delves into the techniques and principles that can be employed to draft effective transactional documents.

AVOIDING MAZES IN CONTRACT LANGUAGE

One common pitfall in drafting transactional documents is creating complex and convoluted language that resembles a maze. Consider, for example, the following clause:

Payment. For purposes of Article 8, any Order described in Article 9 shall be deemed to include the Payment outlined in Sections 6.09 and 9.14, if not already included in Article 2.

This clause is difficult to follow and understand due to its intricate references and cross-references. Rethinking the clause structure and eliminating as many cross-references as possible will enhance readability and comprehension.¹

As for defined terms, they can be both helpful and harmful. Definitions can provide precision but also cloud meaning if not used carefully. Consider this example:

Claims will be Paid in Full within 90 days of Receipt.

Here, “Paid in Full” is defined as: “Compensated in the lawful money of Transnistria at the exchange rate prevalent on 14 July 2012.”

And “Receipt” is defined as: “When received by the Claims Processor.”

Finally, “Claims Processor” is further defined as: “Copra Holding Corp., South Tarawa, Kiribati.”

The overuse of defined terms makes a document cumbersome and difficult to interpret. It is therefore crucial to strike a balance and use definitions only when they genuinely add clarity.

HANDLING AMBIGUITIES

Ambiguity occurs when a contract provision is subject to two or more mutually exclusive interpretations. There are three main types of ambiguity:

- **Contextual ambiguity** arises when different portions of the same contract say contradictory things.²
Solution: Cross-check provisions by topic to ensure consistency.
- **Semantic ambiguity** stems from the words themselves.³
Solution: Examine words from the perspective of a reader in bad faith to identify potential misinterpretations.

- **Syntactic ambiguity** results from word order, punctuation, and unclear antecedents or modifiers.⁴ Temporal terms such as “hereunder,” “thereunder,” or “herein” are particularly dangerous.⁵

Solution: Ensure pronouns have clear antecedents, and structure sentences to eliminate confusion. Also think of tabulating to avoid ambiguity stemming from misplaced modifiers. For example, consider the following clause: “Developer licenses the Software for use on all WiFi-enabled computers, excluding tablets, netbooks, and laptops.” Tabulating can clarify whether the exclusion is meant to apply not only to tablets but also to netbooks and laptops, as in: “Developer licenses the Software for use on all Wifi-enabled computers, excluding: (a) tablets; (b) netbooks; and (c) laptops.”

A Practical Examples

Consider the following clauses:

EXAMPLE 1:

Insurance coverage terminates for all Dependent Beneficiaries who are not residing in the domicile of the Insured and who are over the age of 21.

It is unclear whether the termination of insurance coverage applies (1) to Dependent Beneficiaries who are not residing in the domicile of the Insured (regardless of age), (2) Dependent Beneficiaries who are over the age of 21 (regardless of domicile), or (3) only to Dependent Beneficiaries who meet both conditions simultaneously (not residing in the domicile of the Insured and over the age of 21).

Improved: “Insurance coverage terminates for all Dependent Beneficiaries who are not residing in the domicile of the Insured and who are over the age of 21 have passed their 21st birthday.”

EXAMPLE 2:

Acme may exercise the Option any time from February 1, 2014, to April 30, 2014.

It is unclear from this clause whether the days listed are to be excluded or included for purposes of determining exactly

In addition, when drafting, keep in mind that Washington is an Oxford comma state!

when Acme’s right to exercise the option starts and ends.⁶

Improved: “Acme may exercise the Option any time from February 1, 2014, inclusive, to April 30, 2014, exclusive.”

EXAMPLE 3:

Disputes under this contract shall be resolved by a panel appointed by the architect consisting of three neutrals, two attorneys certified in Construction Law and one attorney certified in Environmental Law.

It is unclear from this clause whether there are six individuals on this panel or only three.

Improved: If there are six members: “Disputes under this contract shall be resolved by a six-member panel appointed by the architect, consisting of three neutrals, two attorneys certified in Construction Law, and one attorney certified in Environmental Law.”

Improved: If there are three members: “Disputes under this contract shall be resolved by a panel appointed by the architect consisting of three neutrals. Two must be attorneys certified in Construction Law and the other must be an attorney certified in Environmental Law.”

Mireille Butler is a teaching professor and the co-director of the Legal Analysis, Research, and Writing Program at the University of Washington School of Law.



EXAMPLE 4:

No term in this contract shall be construed as sanctioning the purchase of bolts from another source.

Improved: “No term in this contract shall be construed as *allowing* the purchase of bolts from another source.”

Improved: “No term in this contract shall be construed as *prohibiting* the purchase of bolts from another source.”

The few previous examples make it apparent that ambiguities in transactional documents stem from various sources, from unclear language and imprecise references to poor punctuation. Following some basic principles allows the drafter to reduce risks of ambiguity.

B Avoiding Ambiguity with Precise Wording

Use of Qualifiers and Standards

In transactional drafting, qualifiers such as “material,” “reasonable,” and “best efforts” are frequently used to introduce a degree of flexibility. However, these terms can be subjective and lead to disputes if not clearly defined.

Materiality: The term “material” generally refers to a level of significance that would affect a reasonable person’s decision. For example:

“Material Adverse Change” means any material adverse change in the business, results of operations, assets, liabilities, or financial condition of the Seller.

Defining “material” in the context of the agreement can prevent misunderstandings. A clear definition might state that “material” refers to any change that would reasonably be expected to have a significant impact on the transaction.

Reasonableness: The reasonableness standard is objective, asking what a reasonable person would have done in similar circumstances. For example:

The Parties will take appropriate measures to secure the required Approvals.

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Write to Counsel

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Using the term “reasonable efforts” instead, defined to create an objective standard, provides greater clarity than “appropriate measures.”

Reasonable Efforts means, with respect to a given obligation, the efforts that a reasonable person in [promisor’s] position would use to comply with that obligation as promptly as possible.

Including specific actions or carve-outs can further reduce ambiguity.

Best Efforts: This term is often misunderstood to mean all possible efforts, but case law suggests it means more than “good faith” but not boundless effort. Courts have stated that “best efforts” requires more than “good faith,” which is an implied covenant in all contracts.⁷

To avoid confusion, it is advisable to use “reasonable efforts” instead of “best efforts” and to specify what actions must be taken to meet this standard.

Knowledge and Representations

Statements of knowledge in agreements should be clearly defined to prevent disputes. For example, a clause stating: “To the best of its knowledge, Seller is not in violation of any Securities Law” should specify what constitutes “knowledge.”

A clearer version might be:

Except as set forth on Schedule X, no litigation is pending or, to the knowledge of Seller’s three executive officers, threatened against the Seller. For the purposes of this provision, “knowledge” means (a) each executive officer’s actual knowledge; and (b) the knowledge that each executive officer should have had after diligent investigation.

This definition clarifies the extent of the seller’s knowledge and the investigation required.

Mandatory or Permissive?

The use of “shall” and “may” in legal documents can significantly impact their interpretation. “Shall” is generally construed as mandatory, imposing an obligation, while “may” is permissive, allowing for discretion. But both words can create ambiguities.



ASK US

If you have a question about legal writing that you’d like to see addressed in a future “Write to Counsel” column by UW Law writing faculty, please submit it to wabarnews@wsba.org, with the subject line “Write to Counsel.”

Courts have held that “[s]hall is inherently ambiguous” as it has been used to mean “not just must and may, but also will and is.”⁸

Courts will interpret “may” and “shall” based on the context and subject matter, so clarity in drafting is essential. Some legal drafting experts advocate restricting “shall” to mandatory obligations or eliminating it altogether due to the semantic subtleties involved.⁹

C Punctuation and its Impact

Punctuation plays a crucial role in transactional drafting, yet its importance is often underestimated. For instance, consider this sentence:

The Company’s managerial employees, who work in California, will not be eligible for the Benefit.

This suggests that all managerial employees are ineligible. In contrast:

The Company’s managerial employees who work in California will not be eligible for the Benefit.

This clarifies that only those managerial employees working in California are ineligible for the Benefit.

Tribunals have been known to either ignore inconvenient commas or give too much significance to them, leading to disputes over interpretations. Disgruntled parties have fought over a comma, with millions of dollars at stake!¹⁰ The careful drafter should use standard punctuation

but avoid structuring language so that too much is riding on its presence or absence.

In addition, when drafting, keep in mind that Washington is an Oxford comma state!¹¹

The Oxford comma, also known as the serial comma, is placed immediately before the coordinating conjunction in a list. For example:

Seller shall deliver shirts in the following colors: red, black, blue, and green.

Without the serial comma, ambiguity may arise:

My heroes are my parents, Superman and Wonder Woman.

Lastly there may be some situations where merely adding or removing commas may not be sufficient to resolve ambiguity. For example, the “Rule of the Last Antecedent” suggests that a qualifying phrase applies only to the immediately preceding element unless separated by a comma.¹² Thus, when interpreting the phrase “letters or emails drafted by a clerk,” the Rule of the Last Antecedent would lead to interpret the qualifying modifier “drafted by a clerk” as referring to “emails” but not “letters.” However, if the meaning of a provision can be significantly changed by a comma, the drafter is better off simply rephrasing.¹³

D Additional Thoughts—Principles of Clear Legal Writing

Fred Rodell, a longtime Yale Law School professor, famously stated in 1936, “There are two things wrong with almost all legal writing. One is style. The other is content. That, I think, about covers the ground.”¹⁴ What has become known as “the plain English movement” was started in 1975 in the U.S. as a way to counter these issues.¹⁵ Legal documents should be drafted in a manner that can be understood, not just by the legal technicians who draft them, but by the consumers who are bound by their terms. This requires the use of the following techniques:

- 1. Short sentences:** Lengthy sentences often lead to confusion. Break down complex ideas into shorter, manageable sentences.
- 2. Definite, concrete, everyday words:** Use plain language that is easily understood.

3. Active voice: The active voice is more direct and vigorous than the passive voice.

4. Tabular presentation: Present complex or multifactor information in tables or bullet lists for clarity.

5. Descriptive headings and subheadings: Use headings and subheadings to organize content logically and help the reader navigate the document.

6. Avoid legal jargon and technical terms: Use simple synonyms instead of legalese. For example, use “end” instead of “terminate,” “explain” instead of “elucidate,” and “use” instead of “utilize.”

7. Avoid double negatives: Double negatives can be confusing. Replace them with a single, clear term (e.g., “not able” becomes “unable”).

8. Reduce superfluous words: Use simpler synonyms and avoid jargon to make legal documents more accessible.

- **Superfluous:** “In order to”
Simplified: “To”
- **Superfluous:** “Subsequent to”
Simplified: “After”
- **Superfluous:** “During such time as”
Simplified: “While” or “During”
- **Superfluous:** “Pursuant to”
Simplified: “Under”

Effective drafting of transactional documents requires meticulous attention to clarity and precision. By adhering to principles of plain English, legal professionals can create documents that are both legally sound and easily comprehensible. Finally, the foundational principle behind the rules of plain English is consistency—in word choice, punctuation, numbering of clauses, use of definitions, etc. Emerson wrote “A foolish consistency is the hobgoblin of little minds With consistency a great soul has simply nothing to do.”¹⁶ With apologies to Ralph, in legal drafting, and particularly transactional drafting, consistency is key! **BN**

NOTES

1. See Kenneth A. Adams, *A Manual of Style for Contract Drafting* § 4.90 (ABA 5th ed. 2023). “Generally, the fewer cross-references in a contract, the better. A reader should be able to understand each provision on its own, without having to turn to another part of the same

contract or to another contract. Prioritizing cross-references can be particularly disruptive; in quantity, they’re a sign of inefficient structure.”

2. For example, a contract cannot simultaneously allow that the risk of loss does not shift until buyer accepts delivery and also that the buyer is responsible for damage arising in transit.
3. *Frigalment Imp. Co. v. B.N.S. Int’l Sales Corp.*, 190 F. Supp. 116 (S.D.N.Y. 1960) “The issue is, what is chicken? Plaintiff says ‘chicken’ means a young chicken, suitable for broiling and frying. Defendant says ‘chicken’ means any bird of that genus. . . .” See also *WebMD LLC v. RDA Int’l Inc.*, No. 102830/08, 2009 WL 175036 (N.Y. Sup. Ct. Jan. 6, 2009) where WebMD promised advertiser RDA its site would have 36,000 visitors. RDA asserted that, by counting the same user multiple times, WebMD failed to provide 36,000 “unique” visitors.
4. See *Loso v. Loso*, 31 A.3d 830 (Conn. App. Ct. 2011). The following clause was at issue: “The defendant agrees to pay for one-half the cost of Sarah’s college expenses for a four-year degree ... subject to the limitation that said cost shall not exceed the tuition for a full-time residential student at UCONN- STORRS.” The defendant contended that the modifier “one-half” applied to the word tuition, so that the cap for his payment was one-half the tuition for a full-time residential student at UCONN-STORRS. Although the court disagreed and found the clause clear, the issue would have been avoided by writing: “The defendant shall pay half the cost of Sarah’s college expenses for a four-year degree, up to an amount equal to half the tuition for a full-time residential student at UCONN-Storrs.”
5. See *Weichert v. Faust*, 989 A.2d 1227 (Md. Ct. Spec. App. 2010). Subsection H of a non-solicitation clause contained a mutual fee-shifting provision, which provided: “If COMPANY brings any action(s) [...] to enforce its rights hereunder and a judgment is entered in the COMPANY’S favor, then MANAGER shall reimburse COMPANY for the amount of the COMPANY’S attorney fees incurred in pursuing and obtaining judgment.” The issue was whether the term “hereunder” in the fee-shifting provision referred only to action taken under the non-solicitation clause, or under the entire contract. If it referred only to the non-solicitation clause, then the manager’s breach of the duty of loyalty was irrelevant to the awarding of attorney fees.
6. Adams, *supra* note 1 § 10.8.
7. *Kroboth v. Brent*, 215 A.D.2d 813, 814 (N.Y. App. Div. 1995).
8. *Bland Henderson v. Commonwealth*, 885 S.E.2d 477 (Va. Ct. App. 2023).
9. Bryan Garner, “Shall We Abandon Shall?,” *ABA Journal* (August 2012), www.abajournal.com/magazine/article/shall_we_abandon_shall/.
10. *Rogers Commc’ns, Inc. v. Bell Aliant* (Canadian Radio-television & Telecommunications

Commission 2007); see also *O’Connor v. Oakhurst Dairy*, 851 F.3d 69 (1st Cir. 2017). Maine law required time-and-a-half pay for each hour worked after 40 hours, but it carved out exemptions for the following: “The canning, processing, preserving, freezing, drying, marketing, storing, packing for shipment or distribution of: Agricultural produce; Meat and fish products; and Perishable foods.” If the exemption applied to packing (for shipment or distribution), delivery drivers did not pack, so they were entitled to overtime. If the exemption was read to include packing for shipment OR distribution, the exemption applied, and the delivery drivers were not entitled to overtime. The case settled for \$5 million.

11. See 2023 Washington State Bill Drafting Guide, Part IV, Section 1(f), https://leg.wa.gov/CodeReviser/pages/bill_drafting_guide.aspx#Commas. “The use or misuse of a comma can have significant implications. ‘It is urged that the comma is the lowest and least significant of all punctuation marks. . . . We must confess, however, to a very high regard for the lowly comma.’ *Peters v. Watson Co.*, 40 Wn.2d 121, 122-23 (1952). The comma is to be used only if required. The most important uses of the comma are described in the following: (i) In a series of three or more words or phrases, a comma is used after each item except the last, as in ‘officers, deputies, and employees.’ This rule applies to both conjunctive, ‘and,’ and disjunctive, ‘or,’ series.”
12. *Id.* Part II, Section 12 (v).
13. In *Rogers, supra* note 11, Rogers Communications had made an agreement with Bell Aliant to rent some of its equipment. After a couple of years, Bell Aliant asked to renegotiate the terms, but Rogers refused. It argued that the deal was binding for five full years and could not be changed earlier. So the two companies went to court over the critical clause in the agreement: “This agreement shall be effective from the date it is made and shall continue in force for a period of five (5) years from the date it is made, and thereafter for successive five (5) year terms, unless and until terminated by one year prior notice in writing by either party.” The argument all came down to that second comma—the one after the word “terms.” Bell Aliant argued that the second comma meant that the final clause—unless and until terminated by one year prior notice in writing by either party—applied to the entire agreement, not just to the renewal periods. The CRTC accepted Bell Aliant’s argument and decided in its favor.
14. Fred Rodell, *Woe Unto You, Lawyers!* (Reynal & Hitchcock 1939).
15. Richard C. Wydick, *Plain English for Lawyers*; see also 17 CFR § 230.421 guidelines under § 230.421 of the Securities Act and the SEC’s Plain English Handbook, www.sec.gov/about/reports-publications/newsextrahandbook.
16. Ralph Waldo Emerson, “Self-Reliance,” 1841.

When and How to Close a Law Practice

BY DAN CRYSTAL, PSY.D.



The WSBA Member Wellness Program gets several calls a year from attorneys, paralegals, family members, judges, and friends who are concerned about significant cognitive changes in an attorney. These are some of the trickiest calls we get. The caller is not usually asking our program to provide counseling for the person they have in mind or even for psychological guidance. They often already have doubts about the attorney's willingness to engage the topic. Their question is whether the WSBA has a process for assessing the competence of an attorney.

I say these are often the trickiest calls for a number of reasons. When we reach out to the attorney in question we often do not hear back. If the attorney does pick up the phone, they are often polite and terse in responding to our unexpected outreach. What makes it even harder is that the name of the person who called us about the attorney remains anonymous. So, unfortunately, this can trigger an uncomfortable response when an attorney is wondering who (and what) prompted us to contact them.

This topic is also hard because, as a psychologist, I am hesitant to weigh in on questions of legal ethics, namely one's competence to practice. After years of challenging calls in cases that are often dire—attorneys forgetting their clients' names in court, not showing up for hearings, not completing filings, appearing confused and interacting with non sequiturs—we decided to form a team to better study the issue.

The Ethics, Wellness, and Practice Team combines the expertise of WSBA staff attorneys at the Ethics Line and Practice Management Program with that of the clinicians at the Member

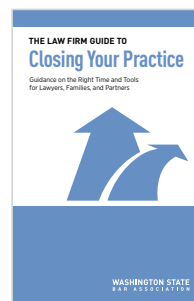
Wellness Program. We spent the last year drafting *The Law Firm Guide to Closing Your Practice: Guidance on the Right Time and Tools for Lawyers, Families, and Partners*.

In this guide, we answer questions related to when and how a lawyer should close their practice from several important perspectives: ethical responsibility, logistics on how to get it done, and psychological guidance on assessing warning signs and planning the next stage of life after practice.

I have had the general observation that lawyers are often slow to retire. So much of an attorney's identity can be tied up in their role as a lawyer. It is understandably hard to give up a practice and reputation that took decades to build. Lawyers are also very conscientious and often cannot picture their contribution to a household without an income. This is one reason we recommend a framework for slowly transitioning out of legal practice. This often means reducing work hours throughout an attorney's 60s and 70s. Most lawyers find lawyering harder as they get older. They may still be competent to practice but the effort can be a drain and the juice might not be worth the squeeze. When an attorney eases out of their legal career, they have time to experiment with other interests until they find something that may be as satisfying as—or maybe even more exciting than—practicing law.

Of course, we have a chapter on recognizing indicators that retirement may be appropriate. These can range from difficulties with memory to exhaustion. We recommend cognitive assessments for most adults in these scenarios and have a go-to list of evaluators. Cognitive assessments can help identify more significant changes, such as dementia, while also serving as a baseline to compare to down the road. When an attorney experiences cognitive challenges, it may actually be a symptom of depression. This is often referred to as pseudodementia. And the good news is that it is more easily treated.

The Professional Responsibility Counsel on our Ethics, Wellness & Practice Team weighs in on the definition of competence to practice and how this is assessed. We also explore some of the ethical complexities of how to act in your client's interests in these circumstances. In addition, we address



GET A GUIDE

Scan the QR code to download *The Law Firm Guide to Closing Your Practice: Guidance on the Right Time and Tools for Lawyers, Families, and Partners*.



Dan Crystal has been working at the WSBA since 2008. He achieved his Psy.D. in clinical psychology from the University of Denver in 2007 and completed a postdoctoral fellowship at the Seattle VA Hospital in 2008. At the Member Wellness Program, Dr. Crystal provides phone support and referrals for mental health concerns; leads career search and meditation groups; and delivers outreach to bar groups statewide on mental health issues. He works with the Office of Disciplinary Counsel as the Diversion Administrator.



some of the ethical challenges around terminating representation, collecting fees, and returning files. While some of this information may be familiar for attorneys, for those who are concerned about an attorney, it is a convenient summation of legal ethical concepts to consider.

The Practice Management Program section of the guide is perhaps the most straightforward in creating a timeline for implementing this outcome. It reviews what to do with your trust account and liability insurance, sending letters to clients, how to handle document retention and returning client files, and how to access a free consultation.¹ One of the most useful concepts is identifying a backup attorney who can begin taking on matters. This strategy can also provide a backstop in case other health issues or priorities get in the way of lawyering.

The story of retirement is so varied. There is no marked finish line, and the assessment of when to retire varies greatly by individual. Many attorneys transition out of legal work not long after law school, while others confidently report that they wish to die at their desk. There is no single profile for lawyer retirement. Our hope is that we created an offering that will provide useful benchmarks and how-to tools to turn to when you, or people you care about, are exploring these options. [BN](#)

NOTE

1. WSBA practice management advisors are available to WSBA members to provide free, confidential practice management consultations. <https://www.wsba.org/for-legal-professionals/member-support/practice-management-assistance#consult>.

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Port Gardner Law Group is proud to announce Matthew A. Jankovic as our newest associate attorney. Matthew graduated from Saint Martin's University in 2016 with dual bachelor's degrees in history and political science and a minor in legal studies. He completed the four-year Rule 6 Law Clerk Program under the mentorship of Cynthia First and practiced as a Rule 9 Licensed Legal Intern from 2022 to 2024. Matthew has been a valued member of the Port Gardner Law Group team for over six years, and has already proven himself to be a careful and effective advocate in his new associate role. He has found success navigating a variety of difficult and complex situations for family law clients in Snohomish, Island, Skagit, Whatcom, and Clark counties. In his spare time, Matthew enjoys reading, going to garage sales, and taking trips with his wife.



Matthew Jankovic can be reached at: matthew@portgardnerlaw.com

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A woman with long dark hair, wearing glasses and a coral-colored suit, stands outdoors in a garden-like setting. She is smiling and looking towards the camera. The background shows green plants and a blurred building structure.

**“
In a time of
division and
polarization,
let’s focus on
what unites
us rather than
what divides
us as we do
the work of
bettering our
profession.”**



2024-2025
WSBA
PRESIDENT

Q&A with Sunitha Anjilvel

*Building
community,
consensus, and
collaboration
within the legal
profession*

Q. Tell us a bit about who you are, your background and law practice, as well as where you practice.

A. I am excited to be the first female South Asian bar president, not only in Washington but also in the country. My parents, both doctors, emigrated from India in the late 1950s and my siblings and I were raised in the U.S. and Canada. My parents instilled in me the importance and value of service. My career trajectory as an attorney

has been diverse in a number of ways, encompassing a variety of jurisdictions and types of practice. After graduating from Dalhousie University, I was first admitted to practice law in 1991 as a legal aid lawyer in Newfoundland, Canada, where I cut my teeth practicing criminal and family law in a rural area for three years with 200 open files per year. I moved to Los Angeles in 1993 and became licensed there in 1995. My solo practice in LA was eclectic and I practiced family law, civil litigation, corporate counsel, and campaign finance law for a nonpartisan statewide California ballot initiative. I made Washington my home in 2007 and have been practicing family law in Redmond since 2008.

Q. You took an unusual path to being seated on the Board. What initially motivated you to join WSBA leadership, first as a governor and now as president?

A. I had never specifically set my sights on Bar leadership and my path to Board service was frankly rather happenstance. In 2018 I was an active, engaged member of the WSBA Diversity Committee. I was and remain keenly interested in promoting inclusivity in the legal profession. I attended an event where I happened to meet some WSBA Board members who advised me that a seat on the Board of Governors for Congressional District 1 was vacant. I was intrigued by the prospect of becoming involved with the Bar on a broader level and so I applied to be appointed. After serving two terms as a governor, I am excited to step into a leadership role.

Q. How do you anticipate your role will change from governor to president, and how are you preparing to answer that call?

A. Having assumed the role of acting president last March, when President Hunter Abell took a leave to pursue public office, my transition from governor to president was swift. As a governor, I

CONTINUED >

TOP 4 PRIORITIES

Q&A with 2024-2025 WSBA President Sunitha Anjilvel

CONTINUED >

exercised a vote on the Board as part of my representation of my constituents. As president, by contrast, I lead the meetings where votes are taken, but I cannot vote. I see my presidential role as providing vital support for the democratic process of our Board and the rule of law.

Q. What will your message be to the public as WSBA president?

A. The WSBA cares about access to justice. The WSBA cares about the tremendous burden shouldered by our public defenders and civil legal aid lawyers. The WSBA cares about the desperate shortage of legal services in rural areas. We are engaged in active initiatives to address these issues.

Q. What will your message be to WSBA members?

A. In a time of division and polarization, let's focus on what unites us rather than what divides us as we do the work of bettering our profession. Let's respect opposing points of view and honor and protect the rule of law and our democratic process.

Q. What issue or issues do you believe are most important to WSBA members right now? How do you plan to address their concerns?

A. As an organization with 40,000 members, we are by no means monolithic, and members have varying interests and expectations of their Bar. I do know that members care very much that the organization that collects their license fees is financially strong and stable. I also know that our members care about promoting competence and being supported in their areas of practice. I take the role of prudent financial stewardship very seriously and I'm proud that our financial picture is solid and transparent. In terms of the WSBA supporting and promoting educational development and professional competence, I'm very proud to continue supporting our Sections and our CLE efforts, which are both outstanding.

WSBA President Sunitha Anjilvel's Areas of Focus



In no particular order:

- To address our statewide crisis of a shortage of lawyers and legal professionals in rural areas. Our Small Town and Rural (STAR) Council (formerly STAR Committee) is hard at work in developing programming designed to respond to the crisis.
- To support a member well-being study—we know that the health and stability of our members directly impacts the effective delivery of legal services.
- To support the work of the recently created Legal Technology Task Force, which will explore technology-related threats and opportunities related to the legal profession.
- To continue to support efforts to make the legal profession more inclusive and thereby also richer and more effective, with improved quality and delivery of legal services. The WSBA has just completed a membership demographic study that will inform a new strategic Diversity and Inclusion Plan that is scheduled to be rolled out in the next few months.

Q. What issue or issues do you believe are most important to the public right now? How do you plan to address their concerns?

A. The public is most directly impacted by lack of access to justice. The Small Town and Rural (STAR) Council is working hard to address the inequities faced by those in rural areas due to lack of available legal services. The WSBA also has a court-appointed Access to Justice Board that does incredible work in addressing access issues. The WSBA's DEI efforts directly intersect with access to justice issues, and we are working to address systemic inequities in our legal profession.

Q. What is one critical misperception the public holds about legal services and legal professionals that the WSBA can help to overcome?

A. Lawyers and legal professionals often

get a bad rap with a collective perception that we only care about money. In my work with the WSBA over the last five years I see how many members, judges, and representatives of our law schools care deeply about access to justice issues and want to serve the needs of unrepresented litigants and defendants. The public may not always see the efforts put forward by the WSBA in this regard, but it is very much part of our ongoing work.

Q. What do you believe the WSBA is doing well?

A. What I think our members don't see is that the Board of Governors, WSBA Executive Director Terra Nevitt, and the accomplished staff at the Bar are in a place where we truly work collaboratively for the good of our members. The power of that collaboration is evidenced by our many programs and initiatives like our

Legal Technology Task Force, our member well-being study, our small town and rural programs, and our Diversity and Inclusion Plan—and this is not an exhaustive list.

Q. In which areas do you think the WSBA needs to improve?

A. We need to do a better job of engaging our membership. Voter turnout in governor elections is astonishingly low, and while our over 1,350 volunteers are obviously engaged, we need to engage our non-volunteer members. We are currently exploring solutions through our Member Engagement Council.


Q. How do you balance service on the Board of Governors (and now as president) with the demands of your practice, and what advice would you give members who are hesitant to volunteer for WSBA committees, boards, or other groups?

A. Board work demands a lot of time and managing one's practice with that work is always extremely challenging. But it is not impossible. Our Board members come from a variety of practices from government law to big law to solo practice like me. There is no question that this work is a sacrifice involving uncompensated time, but it is important, fulfilling, and interesting work. I would love to see more folks explore the possibility of running for Board positions and any one of us on the Board or staff would be happy to give more information. Representation matters and we need a variety of voices and perspectives on our Board.

Q. What is one thing people may be surprised to learn about you?

A. A writer friend of mine once used my name and likeness to create two characters for a detective novel, *Everybody Knows This Is Nowhere*, by John McFetridge. Sunitha was a masseuse who ran with the Hells Angels, and Anjilvel was an always-worried police officer.

Q. What is one question (and answer) that we did not ask you?

A. What is the theme of my year? It is "Building community, consensus, and collaboration within the legal profession." 



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Meet Your Board of Governors



2024 - 2025

Sunitha Anjilvel

PRESIDENT

Sunitha Anjilvel was reelected to the Board of Governors in 2021 and elected by the Board of Governors as president-elect in 2023. She has practiced family law and estate planning in the Pacific Northwest since 2008. Since her first admission to practice law in 1990, Anjilvel has practiced in a variety of courts in Canada, California, and Washington in family law, criminal law, and civil litigation. In 2005, she served as director of a bipartisan campaign to support a redistricting reform initiative on California's statewide ballot. She is committed to social justice and currently is chair and member of the WSBA Diversity, Equity & Inclusion Council and a director on the board of Domestic Relations Attorneys of Washington (DRAW). Anjilvel has also volunteered for the Kinship Care Project and Northwest Immigrant Rights Project. She has a B.A. from McGill University and a J.D. from Dalhousie Law School. She is licensed to practice law in Washington and California.

LEARN MORE > Read a Q&A with President Anjilvel on page 28.



2024 - 2025

Francis Adewale

PRESIDENT-ELECT

Francis Adewale was elected to the Board of Governors in 2021 and elected by the Board as treasurer in 2022 and president-elect in 2024. Adewale is one of the attorneys who helped establish Spokane Community Court, and his commitment to community and movement lawyering is epitomized by his work on several community-based boards and activities in Eastern Washington. Adewale is former chair of the Access to Justice Board and a former member of the Washington Supreme Court's Interpreters Commission. He is currently a board member of Northwest Immigrant Rights Project (NWIRP), board president of Multi-Ethnic Business Association-AHANA, and an adjunct faculty member of both Whitworth University and Gonzaga University School of Law. He is a founding member of the Washington Statewide Reentry Council, having been reappointed three times by Gov. Jay Inslee. In addition to serving on the Board of Directors of Spokane City Credit Union, Adewale and his wife also own and run a small business in Spokane.



2024 - 2025

Daniel D. Clark

IMMEDIATE PAST PRESIDENT

Daniel D. Clark is starting his ninth consecutive Board of Governors fiscal year of service. Clark is entering his sixth year of service as a WSBA officer and has previously served as 2023-2024 WSBA immediate past president, 2022-2023 WSBA president, and District 4 governor from July 2017 to September 2022. He was elected as WSBA treasurer in July 2019 and reelected as WSBA treasurer in July 2020, becoming the first member to serve as treasurer for two terms and two consecutive terms. Clark is a senior deputy prosecuting attorney with the Yakima County Prosecuting Attorney's Office, Corporate Counsel Division. His legal practice includes providing legal representation to Yakima County department heads and elected officials in civil, financial, forfeiture, and taxation litigation matters. He is also the legal counsel for the Southeast Washington Aging and Long Term Care Council of Governments. Born and raised in Yakima, Clark received his B.A. in political science, magna cum laude, from Central Washington University and his J.D., cum laude, from Gonzaga University School of Law.



2024-2027

Parvin Price

GOVERNOR,
DISTRICT 1



NEW Parvin Price was elected to the Board of Governors in 2024.

At 15, in a small rural town, he decided to become a lawyer. Following college at the University of Evansville and law school at the University of Louisville, he was admitted to the Indiana Bar. He began his legal career with state government, first as a deputy attorney general and then as the director of a state agency. At 35, he opened a solo practice. At 39, he was invited to join a midsize firm to build a practice group focused on utilities. At 64, he was invited to join a large firm, Barnes & Thornburg, where his practice continued to focus on litigation, funding, and permitting for various utilities. During his private practice years, Price was involved in numerous community activities including, among others, being elected as a member and president of his local school board. In 2021, he became a member of the Washington Bar with the sponsorship of his oldest daughter. In 2022, he was appointed to the WSBA's Pro Bono and Public Service Committee (PBPSC). In 2023, he was appointed co-chair of the PBPSC. Price and his wife of 50 years are residents of Bothell.



2022-2025

Kari Petrasek

GOVERNOR,
DISTRICT 2



Kari Petrasek was elected to the Board of Governors in 2022 and elected treasurer in 2024. She is a graduate of Seattle University School of Law. She is a solo attorney, having started her own firm, Petrasek Law, in Mukilteo in January 2015. In the 13 years prior to starting her own firm, she worked in several small firms in Everett. She is a civil litigator with significant experience in the areas of juvenile law, guardianships, estate planning, elder law, and family law. Petrasek is also a dedicated advocate for children, having served as a volunteer and attorney guardian ad litem for dependent children. She has been one of the Snohomish County CASA Program attorneys for over 15 years. In addition, Petrasek has served as a judge and commissioner pro tempore for Snohomish County Superior Court since 2010. She is a past-chair of the WSBA Solo & Small Practice Section, the treasurer of Washington Women Lawyers, a past-president and past-treasurer of the Snohomish County Bar Association, a member of Washington State CASA, a leader in the ABA GPSolo Division, and a coach for the Archbishop Murphy High School Mock Trial teams. In her free time, Petrasek enjoys skiing, golfing, football, and baseball.



2023-2026

Allison Widney

GOVERNOR,
DISTRICT 3



Allison Widney was elected to the Board of Governors in 2023. She graduated from the University of Oregon School of Law in 2011. Before that, she earned a criminal justice bachelor's degree from Arizona State University. After law school, she worked as a public defender in Clark County. In 2017, she moved into civil law and currently works as a personal injury defense attorney. Widney grew up in Yakima. She enjoys running, hanging with her dog named Swift (not after Taylor Swift), learning about wine, and traveling.



2024-2027

Mary M. Rathbone

GOVERNOR,
DISTRICT 4



Mary M. Rathbone was elected to the Board of Governors in 2022 and reelected in 2024. She is a partner at Moberg Law Group, P.S. She has a B.A. in business administration from Washington State University, with an emphasis in international business. She obtained her license to practice law through the APR 6 program. For the last 13 years, she has worked primarily in civil defense litigation. When she is not at the office, she can be found balancing ballet, piano, karate, and baseball with her two children. She also serves her local community as a member of Soroptimist International, a nonprofit that serves to better the lives of women and children through economic empowerment.

CONTINUED >



2024 - 2027

Emily Arneson

GOVERNOR,
DISTRICT 5



NEW **Emily Arneson** was appointed to the Board of Governors in 2024. She is a privacy attorney and risk management professional with experience advising state and local government agencies on a variety of matters, including information governance, data privacy, civil rights compliance, legislative analysis, public records, and stakeholder relations. She is a proud graduate of Whitman College and currently sits on its Alumni Association Board. Arneson earned her juris doctor from the University of Washington School of Law and her master's degree in public administration from Eastern Washington University. She has volunteered in her community for many years, sitting on the boards of such organizations as the Spokane County Bar Association and Volunteer Lawyers Program (president), the Emerging Leaders Society of the Spokane County United Way (strategic planning chair), the Spokane Chapter of Washington Women Lawyers (president), the Junior League of Spokane (community director), and the WSBA Labor & Employment Section (young lawyer liaison). Arneson's commitment to the community and the legal profession has been acknowledged by receiving the Washington Young Lawyers Committee Public Service & Leadership Award (2016), Spokane Journal of Business Rising Stars (2018), Inland Business Catalyst Magazine Top 20 under 40 Award (2017), and the WSBA's APEX Outstanding Young Lawyer Award (2017).

WSBA GOVERNANCE: The Board of Governors is the governing body of the WSBA that determines the general policies of the Bar and approves its budget each year. The Board moves the Bar forward with an eye toward its long-standing mission, guiding principles, and short-term strategic goals. The Board consists of the president, president-elect, immediate past president, and members elected from each congressional district and at-large.



2023 - 2026

Todd A. Bloom

GOVERNOR
DISTRICT 6



Todd A. Bloom was elected to the Board of Governors in 2023. He is a sole practitioner with over two decades of experience in providing professional services to private and publicly held companies, high-net-worth families, executives, and private business owners. Bloom's prior experience includes over a decade as a tax attorney and senior manager in Big Four accounting, as well as in-house counsel. Recalled to the Navy after 9/11 and having served over a decade, Bloom retired as a Lieutenant Commander in 2018. Bloom earned his B.A. from Simpson College. He received M.B.A. and J.D. degrees from Tulane University, an M.A. from the Naval War College, an LL.M. from the University of Washington, and a diploma from the College of Naval Command and Staff. Originally from the Midwest, Cmdr. and Mrs. Bloom and their two sons came to the Pacific Northwest by way of New Orleans, Louisiana, where Bloom was first admitted to the Bar.



2023 - 2026

Kristina Larry

GOVERNOR,
DISTRICT 8



Kristina Larry was elected to the Board of Governors in 2023. She is a true solo with her firm Sassy Litigations where she practices trademark, small business, cybersecurity, and data privacy law. She also created the legal sub brands The Prenup Princess and The Seattle Wedding Lawyer. In addition to running her firm, Larry is a staff attorney and lecturer at the University of Washington School of Law. For 10 years she was a volunteer with the King County Bar Association's Housing Justice Project. From 2015 to 2019, she served as a trustee of the Washington State Bar Foundation and from 2019 to 2021 she served as president. She also served on the Executive Committee of the WSBA Solo & Small Practice Section for eight years and was a member of the Practice of Law Board. In 2018, she was named as one of the 40 Under 40 by *South Sound Business* magazine. Larry completed her undergraduate work at the University of Wyoming and earned her J.D. at the HBCU Thurgood Marshall School of Law at Texas Southern University.



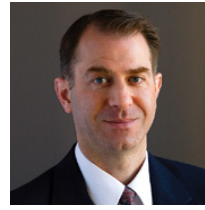
2024 - 2027

Alain Villeneuve

GOVERNOR,
DISTRICT 7 SOUTH



NEW Alain Villeneuve was elected to the Board of Governors in 2024. He is senior vice president and general counsel at TRX, where he has spent more than a decade as the company's lead intellectual property litigator and enforcer. He has practiced law for more than 20 years and taught international IP law at Chicago-Kent College of Law. Villeneuve is admitted in state and federal courts of Washington and Illinois, before the U.K. Law Society as U.K. solicitor, and with the U.S. Patent Office and the U.K. Trademark Office. Before his pivot to patent law, he was an aerospace and nuclear engineer and is certified to operate nuclear power plants by the French government. Villeneuve has a bachelor's degree from Polytechnique of Montreal and a J.D. from the University of Illinois College of Law. He is a dedicated runner and cyclist, winning the triathlon gold at the OutGames, silver medal in the 3,000-mile Race Across America road cycling race, and the Abbott Majors 6-marathon medal.



2023 - 2026

Matthew Dresden

GOVERNOR,
DISTRICT 7 NORTH



Matthew Dresden was elected to the Board of Governors in 2020 and reelected in 2023. He is a solo practitioner at Dresden Law PLLC in Seattle, where he handles a wide range of corporate and transactional matters, with an emphasis on media and entertainment, international intellectual property, and cross-border work. Before attending law school, Dresden worked in Hollywood for several years as an independent filmmaker. Dresden served on the Executive Committee of the WSBA International Practice Section for eight years, including a term as chair. He is also an adjunct faculty member at Indiana University Maurer School of Law, where he teaches a clinic on legal issues for independent filmmakers. He served as a law clerk in the Southern District of Texas for U.S. District Court Judge Vanessa D. Gilmore and U.S. Bankruptcy Judge Jeff Bohm. He has a B.A. from Stanford University, a J.D. from the University of California, Los Angeles, and LL.M.s from New York University and the National University of Singapore.



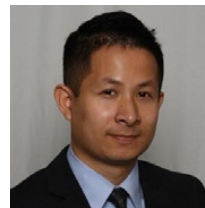
2022 - 2025

Kevin Fay

GOVERNOR,
DISTRICT 9



Kevin Fay was elected to the Board of Governors in 2022. Prior to serving on the Board, he served on the Executive Committee of the WSBA Corporate Counsel Section, the Washington Chapter of the Association of Corporate Counsel, and the Washington Chapter of the Society of Corporate Secretaries and Governance Professionals. He retired after decades of service as in-house counsel for VMware, Inc., PACCAR Inc, and Microsoft Corporation. Prior to going in-house, he was in private practice at Mudge Rose and Shearman & Sterling in New York City, and Bogle & Gates in Seattle. Originally from Seattle, he earned undergraduate degrees in political science and history from the University of Washington, a J.D. from the State University of New York at Buffalo, and an LL.M. from Harvard Law School. When not governing, he plays clarinet in the Port Townsend and Port Angeles Symphonies, saxophone in the Washington Wind Symphony and the MachOne Jazz Orchestra, and spectacularly poor golf on courses throughout Western Washington.



2022 - 2025

Nam Nguyen

GOVERNOR,
DISTRICT 10



Nam Nguyen was elected to the Board of Governors in 2022. He was an assistant attorney general in the Revenue and Finance Division in Tumwater. Prior to the Attorney General's Office, Nguyen worked in private practice in Bellevue and Houston, Texas. Immediately after law school, he volunteered in Bayou La Batre, Alabama, for AmeriCorps' BP oil spill relief program. Aside from the WSBA, Nguyen serves on the board for the Family Support Center, a nonprofit social service organization serving homeless families in the Olympia area, and he is the chair of the Commission on Asian Pacific American Affairs. Nguyen was born in Saigon, Vietnam, and grew up in the South Seattle area. He graduated from the University of Washington and Boston University School of Law, and he has a master's degree in foreign policy from the University of Michigan. Nguyen resides in Tumwater and enjoys running, reading, cooking, and spending time with his dog, Dog Vader.

CONTINUED >

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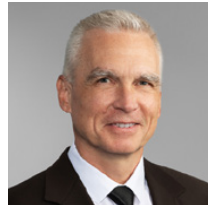


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2023-2026

Tom Ahearne

GOVERNOR,
AT-LARGE

Tom Ahearne (who is permanently half-paralyzed in a wheelchair) was elected to the Board of Governors in 2023 to fill an at-large seat for diversity, equity, and inclusion. An Air Force brat who grew up all across our country, Ahearne has been a Seattle litigator since 1986 (with Foster Pepper Riviera, now Foster Garvey). His professional activities include serving on the boards of the following: NAACP’s Alaska/Oregon/Washington Conference, Washington Defense Trial Lawyers (WDTL), Appellate Section of the King County Bar Association (KCBA), Washington Council of School Attorneys (COSA), and Washington Chapter of the Federal Bar Association (FBA). His main nonwork activities are trying to (1) remind his wife and kids how loved and wonderful they are, (2) not stress out the lifeguards too much as he poorly swims at the pool several times a week, and (3) hand-pedal his tricycle in bicycle events like the Seattle to Portland (STP), Mount Baker Hill Climb, and Ride the Hurricane.



2022-2025

Brent Williams-Ruth

GOVERNOR,
AT-LARGE

Brent Williams-Ruth was first elected as a district governor to the Board of Governors in 2020 and was elected to an at-large position in 2022. Williams-Ruth has had a varied career ranging from working as a 1L intern with the King County Prosecuting Attorney’s Office to working in a nonlegal role with (formerly) Fisher Radio Seattle. Since 2015, he has been the sole proprietor of a concierge estate planning, probate/trust, and elder law firm. Williams-Ruth began his volunteer service with the WSBA in 2018 when he joined the Character and Fitness Board, serving as its 2019-2020 vice chair. He resigned his position with Character and Fitness in 2020 to take his seat as a governor. As governor, he served as the chair of the Subcommittee on Character & Fitness as part of the Supreme Court Task Force on Bar Licensure. Williams-Ruth also serves on the Board of Regents for Seattle University and the Wesley Homes Foundation Board. When not working or volunteering, you will find him traveling, scuba diving, and training for long-distance running, having completed the 2024 Dopey Challenge at Walt Disney World (where he and his husband, Justin, ran 48.6 miles over four days) and registered for the 2025 Chicago Marathon.



2024-2027

Jordan Couch

GOVERNOR,
AT-LARGE

Jordan Couch was elected to the Board of Governors in 2021 and reelected in 2024 to represent new and young lawyers in an at-large position. Couch is a partner at Palace Law, practicing workers’ compensation and personal injury. In his spare time, he is an avid outdoorsman—probably stemming from his childhood spent between an island in Alaska and the Bighorn River valley in Montana. Prior to joining the Board of Governors, Couch served as a trustee for the Tacoma-Pierce County Bar Association, chair of the Access to Justice Board’s Technology Committee, and chair of the Washington Young Lawyers Committee, and has held various leadership roles on the WSBA Solo & Small Practice Section’s Executive Committee. Couch is passionate about increasing access to justice by helping lawyers build better, more client-centric practices, and never gets tired of talking about how to improve our profession (or fishing). [BN](#)



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FAR FROM HOME

Firsthand perspectives on the experience of refugees who have retrained as legal professionals in the United States

BY COLIN RIGLEY

NOTE: *The views expressed in this article are those of the interviewees and do not necessarily reflect the views of the WSBA or its members.*

According to the U.N., “[b]y May 2024, more than 120 million people were forcibly displaced worldwide as a result of persecution, conflict, violence or human rights violations,” among them 43.4 million refugees.¹ This year in the U.S., 68,291 refugees were admitted for resettlement, the highest since the previous peak of 84,994 in 2016, according to the Migration Policy Institute.²

Among the tens of thousands of people entering the U.S. each year, fleeing war and persecution, some come with a legal background from their home countries and others come with a desire to enter the legal profession in their newly adopted home. Regardless of their extent of prior legal education, refugees often need to start from scratch within the U.S. system, which may involve learning in a language that is not their first.

Highline College in Des Moines, for example, has had a number of refugees come through its doors to complete its paralegal program and move on to careers in Washington’s legal profession. In this article, *Bar News* spoke with two recent graduates, Marwa Almasri and Najmia Khatibi, both from the Middle East, who share their experiences of leaving their home countries for the U.S. and beginning their legal education—one of them coming with years of legal experience and the other entering the field for the first time.

Marwa Almasri

LEBANON



Originally from Lebanon, Marwa Almasri grew up and received her education in Syria. In 2004, she enrolled in law school at Damascus University, graduating five years later (Syrian law school lasts longer than U.S. schools and requires post-law-school apprenticeship, she explained); she then practiced law as an apprentice for more than two years before finally being able to take and pass the Syrian Association Bar Exam.

In 2011, as civil war broke out in Syria, Almasri moved to the United States, began studying English at Highline College, and eventually enrolled in the college’s Legal Studies Department to earn her paralegal-plus certification, a one-year ABA-approved program for students with a bachelor’s or other higher education degree.

As part of her studies at Highline College, Almasri volunteered with Northwest Immigrant Rights Project (NWIRP) for about 18 months, where she gained experience working with the Violence Against Women Act program to help immigrants who have experienced abuse petition for legal status—without having to rely on their abusers to obtain immigration relief. From there, she took a legal assistant position with the Domestic Violence Advocacy Project at the King County Bar Association. She is currently pursuing an LL.M. at Seattle University School of Law.

Q. Why did you move to the U.S.?

A. The civil war in my country began in 2011. My husband is an American citizen, and I decided to move here as the chaos started to escalate there.

Q. What motivated you to pursue a career in law?

A. Many things prompted me to study law, but the most important of them are the extensive discrimination in our world and lack of equal opportunities.

I believe everyone should be treated equally and everyone should have a chance to better themselves. Since I was a child, I have witnessed many events that made



Marwa Almasri

me wonder: Why are women viewed as inferior or a tool that can be exploited and oppressed? Why don't poor people have a chance to improve their lives? I witnessed many incidents of violations, exploitation, and humiliation of women, children, and poor people who have no power or support. These questions grew in me as I got older and pushed me to pursue studying law to stand up for myself, my family, my friends, and my community. I always feel that I have an obligation to stand up and raise my voice to demand equity everywhere in our world.

Q. Has your experience as an immigrant and a refugee influenced your

perspective on the U.S. legal system and how you interact with it?

A. I always feel for the immigrants who were forced to leave their homeland in search of safety. I know how difficult it is to leave your country, your family, and your people to feel safe somewhere else.

Immigrants often struggle with

Colin Rigley is a communications specialist with the WSBA. He has nearly 15 years of experience in journalism and communications. He can be reached at colinr@wsba.org.



Here I see that the legal system works, and no one is above the law.”

their legal status, including issues with documentation and access to services. Most immigrants come here either to get away from violence, wars, and poverty, or to seek a better life and better job opportunities—and they are met with a complex and unwelcoming system that does not always take into account the trauma that they have faced to get here. Therefore, policy must find legal solutions that protect, assist, and give immigrants opportunities to thrive in a way that simultaneously develops and improves American society. In my current job as a legal assistant, most of our clients are immigrants, and I always do my best to help them as much as I can, especially clients who cannot speak English well.

Q. Did you have any experience with the legal system in your home country? How does that system compare to here?

A. Yes, after I graduated from law school, I began training under a mentor's supervision. Substantively, the law itself is similar to American law, but procedurally, when it comes to enforcing the rules, it is completely different. There are a lot of things in the legal system [in my home country] that need to be fixed. There is no check and balance system, and this corrupts the legal system. For example, people with money and power can control court decisions, which is very bad and makes me feel very sorry for the innocent people who are victims of these illegal

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Far From Home

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actions. On the other hand, here I see that the legal system works, and no one is above the law, even people with power and a lot of money, but in general there is always room for improvement.

Q. What do you most want to accomplish as a legal professional?

A. I want to work with a nonprofit organization that helps people who are low-income [or] marginalized and immigrants. I want to represent victims of any gender, age, color, or race who are survivors of domestic violence, sexual assault, human trafficking, and other serious crimes. I want to help persecuted people who fled from tyranny and repression in their home countries. I want to help people to seek and exercise their rights, especially people who have barriers to accessing the legal system.

Q. What advice would you give to other refugees and immigrants who are interested in pursuing a career in law? Similarly, what advice would you give to other legal professionals who might interact with refugees, or interact with systems that impact refugees?

A. I want to tell immigrants who are interested in practicing law to be patient

and not give up. I have had a very difficult time since coming here, especially when I went back to school to start learning a different language, but as we all know “nothing great can be achieved without patience.” Now, I feel like I have achieved the result of my hard work. Now, I use my skills as a bilingual speaker to help other refugees who came and are looking for a better life here. Nothing can stop you from reaching your goal as long as you have willpower in your mind. I also want to advise others who may be dealing with refugees to be patient, kind, and give them grace, because I am sure they have been through enough to get here.

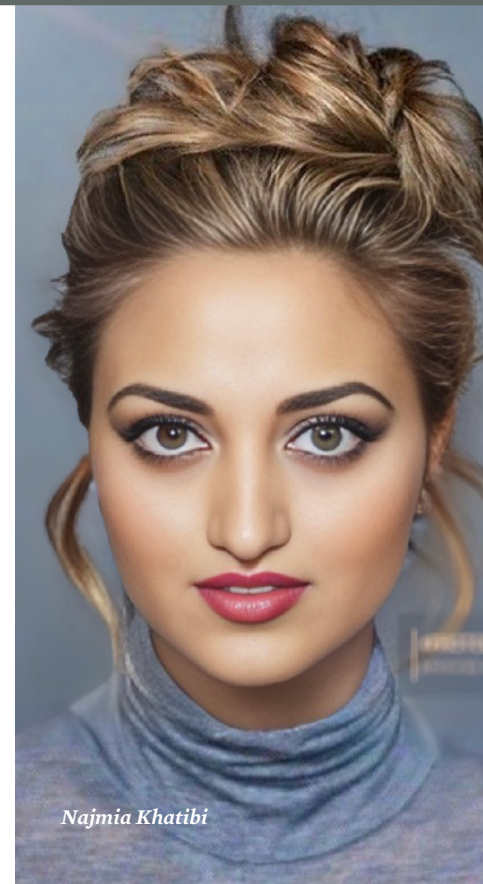
Najmia Khatibi

AFGHANISTAN



In December 2011, Najmia Khatibi graduated from Kabul University with a B.A. in Persian/Dari language and literature. Four years later, she and her husband, who worked for a U.S. construction contractor, were fleeing the country under threat of the Taliban for working with that very U.S. contractor.

After a process that took more than two years, they applied for and were granted a Special Immigrant Visa (SIV) to the United States. Shortly after they arrived in the U.S. in 2019, Khatibi enrolled in Highline College to train as a paralegal despite speaking almost no English. In addition to learning a new language while simultaneously learning about the U.S. legal system, Khatibi found herself faced with a lexicon of legal terminology and procedure to absorb. But over time she picked up the language and the legal. As part of her education, Khatibi took a six-month internship with NWIRP. There, she was able to help immigrants with similar stories to her own, working on immigration cases for Afghans who were also fleeing persecution. Today, she still works for NWIRP's Afghan Community Project, where she handles asylum petitions for Afghan refugees.



Najmia Khatibi

Q. Why did you move to the U.S.?

A. I moved to the United States as an SIV (Special Immigrant Visa) applicant because my husband used to work for a U.S. Army Corps of Engineers design-and-build prime contractor in Afghanistan. Individuals who work for or on behalf of the U.S. government and U.S. military in Afghanistan face significant risks to their lives and the lives of their family members. Due to a couple of security incidents, my husband relocated me and our son to Turkey for safety, while he continued to work in Afghanistan to provide financial support for us. A couple of years later, in early 2019, we moved to the United States.

Q. What motivated you to pursue a career in law?

A. In Afghanistan corruption in the legal system was pervasive, I observed a stark difference upon arriving in the United States: Here, every citizen obeys the law and rules. This stark contrast motivated me to pursue a career in law. Seeing the integrity and effectiveness of the legal system in ensuring justice and equality for all inspired me to contribute to upholding

SIDEBAR

Watch More Online

If you would like to learn more about one of the subjects of this article, Highline College filmed a video with Najmia Khatibi about why she chose the paralegal program there. You can find the video on the Highline College website, <https://legal.highline.edu/#single/O>.



SCAN TO SEE VIDEO >



To fellow refugees and immigrants interested in pursuing a career in law, I would offer the following advice: Everything is indeed achievable, and don't let the fear of language barriers hold you back.”

these principles and making a positive impact in society through a legal career.

Q. Has your experience as an immigrant and a refugee influenced your perspective on the U.S. legal system and how you interact with it?

A. As an immigrant, my experiences have profoundly shaped my perspective on the U.S. legal system and how I interact with it. Coming from a place where corruption was rampant within the legal systems, I deeply appreciate and respect the fairness, transparency, and integrity of the U.S. legal system. My experiences have instilled in me a strong belief in the importance of upholding the rule of law and ensuring equal justice for all individuals, regardless of their background or status. This perspective influences how I engage with the legal system, as I am committed to working within it to uphold its principles and contribute to a just and equitable society.

Q. Did you have any experience with the legal system in your home country? How does that system compare to here?

A. In Afghanistan, the system often favored those with power and money, leading to a pervasive lack of trust and fairness. In litigation cases, it was not uncommon for lawyers or prosecutors to align themselves with the party who held more influence or financial resources, rather than upholding

the principles of justice. One particularly troubling aspect of the legal system was the mistreatment of female defendants.

In cases where the defendant was a woman, she was often subjected to abuse and discrimination by the prosecutor. This blatant misuse of power further exacerbated the systemic inequalities that plagued the legal landscape.

Comparing this to the legal system here in the United States, I have found a stark contrast in terms of transparency, accountability, and adherence to the rule of law. While no system is without flaws, the American legal system is founded on principles of equality and due process, with mechanisms in place to safeguard the rights of all individuals, regardless of their gender, social status, or financial means.

Here, the role of lawyers and prosecutors is to uphold the law impartially, without bias or favoritism. While disparities and injustices certainly exist, there are avenues for recourse and redress through the judiciary and other oversight mechanisms. The commitment to justice and fairness within the American legal system has been a refreshing departure from the corruption and inequality I witnessed in Afghanistan.

Q. What do you most want to accomplish as a legal professional?

A. As a legal professional, my ultimate goal

is to become an accredited representative³ or an attorney, enabling me to serve my community in the most impactful way possible. I am deeply passionate about leveraging my skills and knowledge to advocate for justice and uphold the rights of individuals, particularly those who may be marginalized or underserved.

Q. What advice would you give to other refugees and immigrants who are interested in pursuing a career in law? Similarly, what advice would you give to other legal professionals who might interact with refugees, or interact with systems that impact refugees?

A. To fellow refugees and immigrants interested in pursuing a career in law, I would offer the following advice: Everything is indeed achievable, and don't let the fear of language barriers hold you back. With determination and perseverance, you can overcome any obstacle. Remember, your unique experiences and perspectives as a refugee or immigrant can be valuable assets in the legal profession. Embrace your background and use it to drive your passion for justice and advocacy.

For legal professionals who may interact with refugees or engage with systems impacting refugees, my advice would be to approach each interaction with empathy, compassion, and cultural sensitivity. Recognize that refugees have endured significant hardships and trauma in fleeing their home countries, and that their journey to safety may have left them vulnerable and in need of support. ^[BN]

NOTES

1. The U.N. Refugee Agency, “Global Trends At-a-Glance.” www.unrefugees.org/refugee-facts/statistics/.
2. Migration Policy Institute, “U.S. Annual Refugee Resettlement Ceilings and Number of Refugees Admitted, 1980-Present.” www.migrationpolicy.org/programs/data-hub/charts/us-refugee-resettlement.
3. According to the U.S. Department of Justice, “Federal regulations at 8 C.F.R. § 1292.1(a)(4) allow non-attorney “Accredited Representatives” to represent aliens before the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR), which includes the immigration courts and the Board of Immigration Appeals (BIA).” See www.justice.gov/eoir/recognition-and-accreditation-program.



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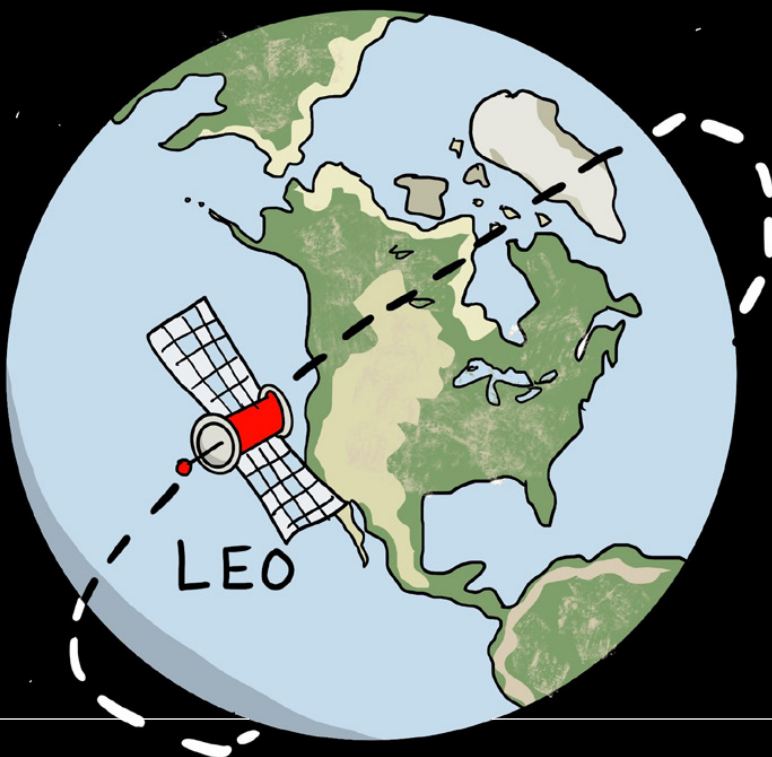
FEATURE

WHEN SPACE IS THE PLACE:

Unique Considerations for Patenting Inventions Practiced in Outer Space

BY KATE MEAD

Illustration by Sierra McWilliams



Since the 1980s, outer space has developed into a significant destination for commercial technologies. The commercial space industry now has an estimated value of hundreds of billions of dollars.¹ In particular, low Earth orbit (LEO) satellites are increasingly important for providing commercial computing and telecommunications services. Companies are shifting computing loads onto networks of LEO satellites that execute software while orbiting the Earth and that transmit communication signals to devices located on the Earth's surface. With the expansion of commercial activities in outer space, there is a corresponding desire (and need) to invent more space-related technologies. The U.S.'s traditional mechanism for encouraging commercially relevant innovation is the U.S. patent system. But does that framework translate to extraterrestrial inventions?

According to 35 U.S.C. § 271(a), "whoever without authority makes, uses, offers to sell, or sells any patented invention, within the [U.S.] or imports into the [U.S.] any patented invention during the term of the patent therefor, infringes the patent." In general, a U.S. patent can only be enforced against activities within the territorial jurisdiction of the U.S. For example, a patented, computer-implemented method can be enforced against the execution of every step of the method by a computer located within the U.S. If any step required by a patent claim is performed outside of the U.S., such as by a computer located in Canada, the pat-

CONTINUED >

In theory, U.S. patent laws can be enforced against activities by any satellite or space-traveling vehicle that is launched from and registered by the U.S.

When Space is the Place: Unique Considerations for Patenting Inventions Practiced in Outer Space

CONTINUED >

ented method claim generally cannot be enforced.

The U.S. does not claim territorial jurisdiction over outer space. Similar to limits of coastal jurisdiction in maritime law, U.S. airspace is bounded by a limited elevation above the surface of the U.S. Outer space is generally defined above the Kármán line, which is a “boundary” set at 100 kilometers above mean sea level. LEO satellites, for instance, can reside up to 2,000 kilometers above the Earth’s surface—well outside of U.S. airspace. Moreover, many satellites are designed to orbit around the Earth. An LEO satellite that is launched in the U.S., for instance, may travel over oceans and land masses far from the borders of the U.S.

In an attempt to claim jurisdiction over some infringing activities occurring in outer space, the U.S. enacted 35 U.S.C. § 105 in 1990, which states: “Any invention made, used or sold in outer space on a space object or component thereof under the jurisdiction or control of the United States shall be considered to be made, used or sold within the United States for the purposes of [U.S. patent law]” In theory, a U.S. patent can be enforced against an LEO satellite or another device in outer space that is a “space object or component thereof under the jurisdiction or control of the U.S.” *Id.*

The U.S.’s jurisdictional control over space objects is defined in a series of international agreements. As a signatory of the *Convention on Registration of Objects Launched into Outer Space*, art. I & II, 12 November 1974, 1023 U.N.T.S. 15 (the “*Registration Convention*”), the U.S. “shall register” any object that is “launched into earth orbit or beyond” from the U.S., as well as “component parts of [the] object” and “its launch vehicle and parts thereof.” Further, as a signatory of the *Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies*, art. VIII, 19 December 1966, 610 U.N.T.S. 205

(the “*Outer Space Treaty*”), the U.S. “shall retain jurisdiction and control” over any space object that it registers. Thus, in theory, U.S. patent laws can be enforced against activities by any satellite or space-traveling vehicle that is launched from and registered by the U.S.

Fortunately for U.S. patent holders, the combination of these laws enables enforcement over many space technologies. Of the 2,664 objects launched from Earth into space in 2023, 2,166 of them were launched from the U.S. United Nations Office for Outer Space Affairs.² Theoretically, a U.S. patent could be enforced on an LEO satel-

Of the 2,664 objects launched from Earth into space in 2023, 2,166 of them were launched from the U.S.

lite controlled by a German company that only provides services to customers located in the EU, provided that the satellite was launched from and registered (under the *Registration Convention*) by the U.S.

U.S. patent law, however, has some important jurisdictional limitations in outer space. For instance, a potential infringer could avoid liability under a U.S. patent by launching an LEO satellite from outside of the U.S. Even if the LEO satellite provides communications and services to entities within the U.S., and even if the LEO satellite is controlled by a U.S. company providing services to U.S. customers, these activi-

ties are outside of the apparent jurisdiction of U.S. patent laws based on the influence of the above-noted international treaties. For example, an LEO satellite exclusively providing telecommunication services to devices within the U.S. could theoretically avoid infringing U.S. patents if it was launched into space from the U.K.

Additionally, there are practical limitations to enforcing U.S. patents on activities in outer space. Because it is difficult to physically inspect devices after they have been launched into space, it could be particularly challenging to prove that an LEO satellite or some other space object is in-

fringing an issued patent claim—whether to a method or a device.

Entities seeking to innovate and patent space-related technologies should consider a few guiding principles as they develop a patent-filing strategy. First, because the U.S. can assert jurisdiction over the vast majority of space objects launched from the Earth (because the vast majority of space objects are launched from the U.S.), entities should prioritize filing patent applications in the U.S. over other national jurisdictions. In theory, U.S. patents with claims that target the space objects themselves are enforceable.

Second, if possible, entities should consider prosecuting a mixture of claims that target methods and structures of both space objects and terrestrial devices that interact with the space objects. For instance, in some cases, inventive features can be claimed from the perspective of a satellite or a ground station that interacts with the satellite. Claims directed to the satellite can be enforced under § 105. Claims directed to the ground station may be enforced using more conventional legal principles (including § 271), because such claims are directed to devices within the traditional territorial jurisdiction of the U.S.

Third, due to practical challenges with

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proving infringement in space, entities should carefully consider whether it is appropriate to file patent applications on difficult-to-detect technologies or whether trade secret protection is more useful. There may be limited value in a patent if the patent owner cannot prove whether an LEO satellite or a method implemented by the satellite falls within its claims.

Fourth, for particularly important technologies, or for patent claims targeting activities by companies that launch outside of the U.S., entities should consider contacting local counsel about the value of pursuing patent rights in other jurisdictions associated with active launch sites and which are signatories to the *Registration Convention* and the *Outer Space Treaty*, such as the U.K., Germany, and France. Other countries with active launch sites include Japan, Russia, and China. Given the multiple European jurisdictions with launch sites, entities will want to consider whether submitting applications at the European Patent Office, or pursuing unified European patents, is worthwhile.

Those aiming to enforce patent claims against technologies in outer space should also be mindful of the legal uncertainty associated with the applicability of U.S. patent laws to technologies in outer space. While the legal principles described above appear to apply to many space-related technologies, the validity of these laws is largely untested. Moreover, these laws were introduced and promulgated long before the development of modern computing technologies that have significantly increased the relevance of space-related technologies. Until a U.S. patent claiming extraterrestrial components or steps is enforced or challenged, and the U.S. courts and legislative branch provide further guidance, U.S. patent enforcement in space is inherently uncertain. **BN**

NOTES

1. NASA, "What is the Commercial Low Earth Orbit Economy?" (June 21, 2022), available at www.nasa.gov/humans-in-space/commercial-space/what-is-the-commercial-low-earth-orbit-economy/.
2. *Online Index of Objects Launched into Outer Space* (2024), available at www.unoosa.org/oosa/osoindex/search-ng.jsp.

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- Kayshel v. Chae, Inc., 17 Wn. App. 2d 563, 486 P.3d 936 (2021)
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Major Upgrade to Free Legal Research Benefit for Members is Coming

The merged company vLex Fastcase is preparing to launch a new interface that includes an editorial citator called Cert

BY ED WALTERS

The Washington State Bar Association has partnered with Fastcase since 2019 to offer complimentary legal research to its members. If you're a member of the WSBA, you get free access to Fastcase's nationwide legal research service—federal and state cases, statutes, regulations, court rules, and constitutions, plus free reference attorney support by phone or chat and unlimited searching and printing—a service that normally costs \$1,145 per year but is included as a benefit of membership in the WSBA.

Fastcase was founded in 1999 with the mission to democratize the law and to make the practice of law smarter. The service was founded by lawyers who wanted to make access to the law a cornerstone of practice, not a privilege reserved for the largest law firms in the world. Working with bar associations in almost every state, the company has made legal research available to more than 1.1 million lawyers across the United States.

A Merger of Strength With Strength

In 2023, Fastcase merged with vLex, a global legal intelligence platform in operation since 2000. The two companies share a common mission—to democratize legal knowledge. And while Fastcase was building a deep library of legal materials in the

United States, vLex, founded in Spain, was doing the same to serve lawyers throughout Europe, Latin America, and Asia.

The combination is a perfect fit and together the two companies form one of the world's largest law libraries, with more than 1 billion documents from more than 110 countries and more than 3 million subscribers. Legal journalist Bob Ambrogi said that the merger would “reshape the legal research and legal technology landscape on a global basis.”¹

A Big Upgrade for WSBA Members

This merger makes the WSBA free member benefit better than ever. The combined company continues its mission to work with state bar associations to make legal research an included part of license fees for legal professionals. The Fastcase legal research service will be called vLex Fastcase in the United States, while the global corporate name remains vLex. The mission for both companies remains the same—to ensure that people win or lose cases based on who has the law on their side, not based on who can afford to find out whether the law is on their side.

The new vLex Fastcase will offer some significant upgrades to members:

1 Cert citator. Is your case still good law? vLex Fastcase will include the robust Cert citator, a combination of AI and human review of more than 700,000 citations. Technical teams have been working on the citator for four years, in research, development, and testing phases. The result is a new citator that is more powerful than ever.

2 Vincent AI. vLex Fastcase will include some of the features of the vLex Vincent AI platform in the free member benefit: Vincent uses artificial intelligence to create headnotes for judicial opinions, find references similar to the document you're reading, and translate research into other languages, which can be helpful for advising clients for whom English is not their first language. Additional tools from Vincent AI will be available at a monthly subscription cost, such as AI-powered research, drafting of memos and briefs, redlining, reviewing contracts, M&A due diligence, and more.

3 Sleek new interface. The new vLex Fastcase features a more streamlined, easier-to-read design to make research simpler and more accessible for experts and beginners alike.

4 Continued access to your subscriptions. If you subscribe to WSBA deskbooks, secondary publications, or the briefs and pleadings database on the Fastcase platform, those subscriptions will move with you to the new platform.

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The WSBA has offered legal research as a free benefit to members for many years. The release of the new vLex Fastcase platform will make it easier than ever to prepare work for clients, improving an already great legal research service. [BN](#)

NOTE

1. www.lawnext.com/2023/04/in-major-legal-tech-deal-vlex-and-fastcase-merge-creating-a-global-legal-research-company-backed-by-oakley-capital-and-bain-capital.html.

Ed Walters is the chief strategy officer of vLex and the co-founder of Fastcase, a legal intelligence company based in Miami, Florida. He is an adjunct professor at the Georgetown University Law Center and at The University of Chicago, where he teaches Generative AI and BigLaw.



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Gauri Shrotriya Locker
Constance Locklear
Meredith Long
Sydney Lopes
K. E. Love
Leonard Lucenko
Marla Ludolph-Heikkala
Loi Lumala
Richard Lumley
Heather Lund
Jeffrey Lustick
Alexandra Lynch

M

Mariane Jacobs
Maccarini
Matthew Macklin
Zebular James
Madison
Setareh Mahmoodi
Rajeev Majumdar
Eric Makus
Lisa Malpass
Amy Mandin
Brendan Mangan
Michael Marr
Breanne Martell
Jacquelyn Martin
Annalise Martucci
Kellan Martz
Katherine Mason
Kara Masters
Kenneth Masters
Meridee Mathews
Erica Matson
Alicia Matusheski
Julie Mayer
Gregory McBroom
Marti McCaleb
Mark McCarty
Carol Mccauley
Stephanie McCleery
Kevin McClure
Shannon McDermott
Peter McDonald
Reid McEllrath
Madeline McFee
Joshua McGill
Carena McIlwain
Allen McKenzie
Megan McNally
John McWilliams
Tonya Meehan
Parna Mehrbani
Elias Mendoza
Roger Mensch
Christopher Jason
Mercado

Kevin Meserve
Kimberly Meyers
Michele Michalek
Allen Miller
J. Scott Miller
Jennifer Miller
Shont Miller
Nicholle Mineiro
Jamey Minnihan
Gregory Mitchell
Arthur Mora
Robert Morgan
Rachel Morowitz
Andren Moyer
Mariko Mulligan
Daniel Murphy
Trish Murphy
Pilar Murray

N

Stacie Naczelnik
Nathan Nanfelt
Morgan Napieralski
Ramon Nash
Rhonda Neben
Meagan Neil
Kirsten Nelsen
Dawn Nelson
Todd Nelson
Joel Nichols
Lisa Nichols
Therese Norton
Melanie Notari
Anessa Novasio

O

Julie Oberbillig
Sheri Oertel
Jaci Ohayon
Ajibola Oladapo
Kyle Olive
Steven Olsen
Craig Osbun

P

Adam Pappin
Benjamin Pardue
Paul Parker
Alexander Pascualy
Richard Patrick
Natasha Patton
Althea Paulson
Charles Peach
Zachary Pekelis
Michael Pellicciotti
Chieh-Chih Peng
David Perez
Shaun Perry
Kari Petrased
Faith Pettis
Paula Plumer
Aaron Poledna
Michael Pontarolo
Ryan Poole
Kathryn Portteus

Benjamin Premack
Terry Price
Constance Proctor
Bruce Pruitt-Hamm
Peder Punsalan-Teigen

Q

Shahzad Qadri
Stefani Quane
Arthur Quigley
Veronica Quinonez

R

Caryn Ragin
Kristina Ralls
Barbara Rasco
Kari Reardon
Emily Reber-Mariniello
Kimberly Reid
Daniel Rey-Bear
Steven Rich
Jennifer Richards
Ronald Richmond
Vanessa Ridgway
Erin Riley
Cynthia Rios
Ronald Ritoch
Dale Robbins
Jessica Roberts
Scott Rodgers
Jacinta Rodriguez
Pamela Rodriguez
Christopher Ronne
Patricia Rose
Jessica Rouch
Ioulia Roussinova
Giulia Rubin
Thomas Rubin
Daniel Russ
Robie Russell
David Ruzumna

S

Manja Sachet
Rebecca Saitz
Candace Sanders
Christopher Sanders
Marya Santor
Vonda Sargent
Sima Sarrafan
Dana Savage
Tonilynn Savage
Marguerite Schauer
Kelli Schmidt
Brennan Schreibman
Lindsey Schromen-Wawrin
Karen Schweigert
Kathryn Selk
James Senescu
Yahya Shakir
Malak Shalabi
Holly Shannon
Naoko Shatz
G. William Shaw
Michele Shaw

A. Rebecca Shelton
Ada Shen-Jaffe
Kate Shreiner
Joyce Shui
Joseph Sicilia
Talwinder Singh
Dalynne Singleton
Diana Singleton
Gregory Sisk
Alexandra Sisson
Victoria Slade
James Slater
Jennifer Slattery
Julie Slawson
Catherine Smith
Gail Smith
Jennifer Smith
Janice Smith-Hill
Robert Spitzer
Jonathan Sprouffske
Julian St. Marie
Eric Stahl
Max Stahlberg
Travis Stearns
Henry Stegner
Alec Stephens
Shelby Stoner
Shannon Story
Heather Straub
Beth Strosky
Yohei Suda
Craig Suffian
Melissa Sullivan
Joel Summer
Stephanie Sundier
Alfred Sundt
Tony Swartz
Raymond Swenson
Charles Szurszewski

T

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Divya Taneja
Niharika Tawde
Jordan Taylor
Hewan Teshome
Rondi Thorp
Bianca Tillman
Thomas Tobin
Anna Tolin
Nil Sifre Tomas
Jonathan Trotter
Kira Truebenbach
Emily Tsai
Elena Tsiprin

U

Laura Umetsu
Peggy Underbrink
Rafael Urquia

V

Kim-Khanh Van
Pamela Van
Swearingen
Leslie Vander Griend

Tomer Vandsburger
Vivian Vassall
Tadeu Velloso
Leslie Veloz
Carla Vestal
Megan Vogel
Mark Von Weber
Marketa Vorel

W

Leticia Walker
Leslie Wallis
Mark Walters
Eryne Walvekar
Shenger Wang
Sara Ward
Michael Wardell
Oviett Worthington
Wargula
Amelia Watson
David Weafer
Gordon Webb
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Abraham Weill
Sean Wickens
Matthew Widmyer
Brenda Williams
Deborah Williams
Noah Williams
Timothy Williams
Brent Williams-Ruth
Bryan Williamson
Stephen Willis
John Wilson
Lily Wilson
Lynne Wilson
Erin Winkles
Thomas Wolfendale
Zoe Wood
Bret Woody
Willa Wu
Matthew Wurdeman
Jennifer Wyatt

X

Tongmei Xu

Y

Elena Yager
Xi Yang
Laura Yelish
Dan Young

Z

Grace Zagorskis
Kerry Zeiler
Poul Zellers
Dominique Zervas-Foley
Wendy Zicht
John Ziegler
Gayle Zilber
Marla Zink

SIDEBAR

2023 Voluntary Reporting of Pro Bono Publico Service Hours

(per RPC 6.1)

132,268

Total hours reported

82,858

Direct service hours (RPC 6.1(a))

49,410

Indirect service hours (RPC 6.1(b))

1,726

Total number of legal professionals reporting hours

645

Legal professionals reporting 1-30 hours

217

Legal professionals reporting 31-49 hours

864

Legal professionals reporting 50+ hours

BN

Need to Know

NEWS & INFORMATION OF INTEREST TO WSBA MEMBERS

WSBA NEWS 2025 License Renewal and Sections Information

License Renewal is Now Paperless (online only). Online licensing will open in November and must be completed by Feb. 3, 2025. Please be sure your email address is current and that emails from the wsba.org domain will not be marked as spam. License renewal includes paying the annual license fee and any mandatory assessments, certifying MCLE compliance, completing the trust account declaration, and disclosing professional liability insurance or financial responsibility. Pay online via credit card or electronic funds transfer or print an invoice to mail in with a check.

Certify MCLE Compliance. If you are in the 2022-2024 reporting period, then you are due to report CLE credits and certify MCLE compliance. The deadline for completing credits is Dec. 31, 2024. The certification must be completed online by Feb. 3, 2025. Visit www.wsba.org/for-legal-professionals/mcle to learn more.

License Fee Payment Plan Option Available. If you are experiencing financial challenges, you may contact us about our payment plan option available to all licensed legal professionals. Payments may be made in up to five installments with the balance required to be paid in full by Feb. 3, 2025. A license fee hardship exemption is available for active licensed legal professionals who qualify. Visit www.wsba.org/licensing to learn more.

Voluntary Demographic Information. Please update your information at <https://>



THE BAR BUZZ

Employers: Reviewed Your Group Health Insurance Options Lately?

The group health insurance landscape is evolving. If you haven't assessed your plan in a while, you might not know what you're missing out on. Members have access to licensed benefits experts who can help you find out—at no cost. It's a courtesy consultation, and it's included with your membership. Make sure your company isn't overlooking or overpaying. Start your no-obligation market analysis and group health quote today on the WSBA Insurance Marketplace at www.wsba.org/for-legal-professionals/member-support/health-insurance-exchange.

licensing.wsba.org when online licensing opens in November. This information is essential to understanding the demographic makeup of licensed legal professionals in the state and can help inform better policymaking by decisionmakers, including the Washington Supreme Court.

Join or Renew Your Section Membership. The Section membership year is Jan. 1-Dec. 31. Learn more at www.wsba.org/legal-community/sections/about-sections.

Pro Bono Status. If you are considering going inactive, pro bono status (formerly known as emeritus pro bono status) is a great alternative that lets you provide pro bono services through a qualified legal services provider. The license fee will be waived for pro bono status members who completed at least 30 hours

of pro bono service with a qualified legal services provider in the prior year. Learn more at www.wsba.org/for-legal-professionals/license-renewal/status-changes/emeritus-pro-bono-membership-and-return-to-active-membership.

Judicial Status. Please note that you are required to inform the Bar within 10 days of your retirement or your ineligibility for judicial status (and you must apply to change to another status or to resign). Visit www.wsba.org/licensing to learn more.

IMPORTANT DATES

- **Dec. 31, 2024:** Licensed legal professionals in the 2022-2024 reporting period must complete required MCLE credits.
- **Feb. 3, 2025:** Deadline for requesting the one-time License Fee Hardship Exemption.
- **Feb. 3, 2025:** License renewal,

payment(s) and MCLE certification, if applicable, must be completed online.

Pathways to Productivity

Presented in collaboration with the WSBA's Practice Management Program, this free group meets via Zoom every other week for six sessions, noon-1 p.m., Oct. 1-Dec. 17. We will continue offering additional six-week-long groups in later months. If you're a legal professional navigating productivity challenges in the workplace, this group is tailored for you. Learn more and sign up at www.wsba.org/for-legal-professionals/member-support/wellness/group-sessions.

Comment on Proposed Changes to Public Defense Standards

The Washington Supreme Court is seeking input on proposed changes to the court's adopted standards for public defense. The proposed new standards would lower the maximum caseloads for public defense attorneys, revise some qualification requirements for public defense attorneys, set minimum support staffing requirements for public defense attorneys and offices, and align with the new indigent defense standards adopted by the WSBA in March. The public comment period is open through Oct. 31. Send your comments to supreme@courts.wa.gov or P.O. Box 40929, Olympia, WA 98504-0929. To learn more, visit www.courts.wa.gov/newsinfo/?fa=newsinfo.internetdetail&newsid=50456.

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APPEALS

FULL-SERVICE APPELLATE PRACTICE

Jason W. Anderson • Nicholas A. Carlson • Linda B. Clapham

Rory D. Cosgrove • Michael B. King • James E. Lobsenz

Gregory M. Miller • Isaac C. Prevost • Sidney C. Tribe

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Need to Know

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Spanish Language Access to the Lawyer Grievance Process

Please help spread the word: Information, directions, forms, and telephone interpreters are now available in Spanish for anyone who would like to contact the State Bar with a concern about the ethical conduct of a lawyer. Spanish speakers can click "En Español" on the top menu bar at www.wsba.org to learn more. If you would like flyers to post or cards to hand out to potentially interested people or organizations to spread awareness, please contact questions@wsba.org. This is a pilot project that the WSBA hopes to expand to more languages soon. Visit www.wsba.org/for-the-public/concerns-about-a-lawyer/preocupaciones-por-un-abogado.

Help Fill the Moderate Means Legal Need

The statewide Moderate Means Program serves moderate-income clients through a network of attorneys and limited license legal technicians who offer assistance in family, housing, consumer, and unemployment law cases at reduced fees scaled to the client's income. There is an urgent need for legal professionals to serve. Visit www.wsba.org/connect-serve/pro-bono-public-service/mmp for more information and join now through your myWSBA account, www.mywsba.org.



VOLUNTEER

UW Law Tax Clinic

The Federal Tax Clinic at the University of Washington School of Law has pro bono opportunities for attorneys, tax preparers, and enrolled agents. Clients are low-income taxpayers who have disputes with the IRS. The clinic will provide an orientation,

onboarding onto CLIO management software, and mentoring throughout your time with the clinic. If you are interested, please contact John Clynch at 206-616-6266 or clyncher@uw.edu.

Be a Judge for UW In-House Competitions

The University of Washington School of Law hosts three in-house competitions during the school year and seeks local attorneys and judges to evaluate, score, and give feedback to the student competitors. If you are interested in judging the negotiation, mock-trial, and/or appellate advocacy competitions, please email trialad@uw.edu. Find out more at www.law.uw.edu/academics/experiential-learning/moot-court.

Legal Clinic Volunteers Needed

A free legal clinic put on by the Latina/o Bar Association of Washington, the King County Bar Association, and El Centro de la Raza is looking for attorney volunteers interested in doing pro bono work. The clinic takes place from 6-8 p.m. on the second Wednesday of every month through November at El Centro de la Raza in Beacon Hill (2524 16th Ave. S, Seattle, 3rd Floor). Volunteers provide general consultations. For more information, email clinics@lbaw.org.

RESOURCES IOLTA FAQs

Have questions about trust accounts? Check out the new IOLTA FAQs to learn important information about such topics as unidentified owners and unclaimed property, recordkeeping, disbursements, general banking, reconciliation, and more. Find the FAQs at www.wsba.org/for-legal-professionals/member-support/practice-management-assistance/iolta-faqs.

Software and Services for Your Practice

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. Learn more and access your discounts today at www.wsba.org/for-legal-professionals/member-support/practice-management-discount-network.

Free Practice-Management Consultations

The WSBA offers free resources and education on practice management issues. For more information, visit 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.

Check Out the DEI Resource Library

The DEI Resource Library is where WSBA members can learn more about diversity, equity, and inclusion concepts. Visit www.wsba.org/about-wsba/equity-and-inclusion/dei-resource-library.

WSBA MEMBER WELLNESS

Peer Advisor Training

Join our network of legal professionals as a peer advisor! Sign up for our free CLE training on Dec. 5 by completing the form at www.wsba.org/for-legal-professionals/member-support/wellness/peer-advisors. Peer advisors are part of a network of legal professionals who are seeking to support lawyers. This is a great opportunity to make

meaningful connections and offer support to fellow legal professionals.

Virtual Mental Health Support Group

The free group, *Healing Minds: Managing Persistent or Overwhelming Challenges to One's Well-Being as a Lawyer*, led by WSBA staff Adely Ruiz, LSWAIC, and Dan Crystal, Psy.D., meets the first Thursday of every month from 1-2 p.m. Learn more and sign up at www.wsba.org/for-legal-professionals/member-support/wellness/group-sessions.

Telehealth is Here!

The Member Wellness Program is now offering hi-def, HIPAA-protected video consultations using the telehealth portal *Doxy.me*. Visit www.wsba.org/for-legal-professionals/member-support/wellness and click "Book Your Initial Consultation" to schedule time with our licensed providers.

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

This 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.

ETHICS Ethics Line

Members facing ethical dilemmas can talk with WSBA professional responsibility counsel for informal guidance. Learn more at www.wsba.org/for-legal-professionals/ethics/ethics-line or call the Ethics Line at 206-727-8284.

WSBA Advisory Opinions

WSBA advisory opinions are available online at www.wsba.org/for-legal-professionals/ethics/about-advisory-opinions. For assistance, call the Ethics Line at 206-727-8284.

WSBA COMMUNITY NETWORKING

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 Oct. 2024 Usury

The usury rate for Oct. 2024 is 12.00%. The auction yield of the Sept. 3, 2024, auction of the six-month Treasury Bill was 4.823%. The interest rate required by RCW 4.56.110(3)(a) and 4.56.115 for Oct. 2024 is 6.823%. The interest rate required by RCW 4.56.110(3)(b) and 4.56.111 for Oct. 2024 is 10.50%. **BN**

HAVE SOMETHING NEWSWORTHY TO SHARE?

Email wabarnews@wsba.org if you have an item you would like to place in *Need to Know*.

On Board

NEWS FROM THE BOARD OF GOVERNORS & THE WSBA

SEPT. 6-7, 2024

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 Welcomes and Farewells.

Washington Supreme Court Chief Justice Steven González swore in the WSBA's incoming officers and Board members: President Sunitha Anjilvel, President-Elect Francis Adewale, Immediate-Past President Dan Clark, Treasurer Kari Petrasek, and Governors Parvin Price (District 1), Mary Rathbone (continuing for District 4), Alain Villeneuve (District 7-South), and Jordan Couch (continuing as at-large representing young lawyers). Because Gov. Adewale relinquished his seat to assume his new office, the Board elected Emily K. Arneson to fill the District 5 position for the three-year remainder of the term (and, following that, she was also sworn in). Outgoing Gov. Serena Sayani, from District 7-South, was lauded for her service and leadership. See page 28 for an introduction to President Anjilvel and page 32 for biographies of all FY 25 WSBA officers and governors.

2 Proposal for New License Statuses.

Based on much member feedback, a work group studied current WSBA member license status options and presented proposed changes for first reading. The recommendations address members' desires to have options other than "voluntarily resigned" when they stop actively practicing but may want to, for

example, do a small amount of volunteer work with the WSBA or remain active in Bar activities; others want to rename the "voluntarily resigned" status to something with a more positive connotation. The Board expects to take action on the proposal in November.

3 Standards for Family Defense Services and Appellate Caseloads.

The Board approved new WSBA Standards for Indigent Defense Services regarding the provision of family defense services and implemented an interim appellate caseload standard pending the results of an appellate workload study. The Board will also transmit the suggested amendments to the Washington Supreme Court for its consideration. These changes are part of the Council on Public Defense's (CPD)

MORE ONLINE

The agenda, materials, and video recording from this Board of Governors meeting (held in Grand Mound), as well as past meetings, are online here: www.wsba.org/about-wsba/who-we-are/board-of-governors.

See the online version of this article to read about additional actions taken by the Board during this meeting, including approval of several Bylaw amendments. wabarnews.org.

process to comprehensively update the WSBA's and the court's standards for indigent defense. In March, the Board approved a significant update, and the CPD at that time promised to bring forward corresponding standards specific to particularized areas of practice, such as appellate and family defense services.

4 Local Heroes. The WSBA recognized Patrick O'Connor and Stephanie Stocker as Local Heroes, an honor

bestowed by the WSBA president in partnership with local bar associations to recognize colleagues who make noteworthy contributions to their communities. O'Connor, nominated by the Government Lawyers Bar Association, has successfully navigated Thurston County Public Defense through many challenges recently, all while supporting his community at large through activities like coaching and volunteering. Stocker was nominated by the Thurston County Bar Association because—in addition to numerous accolades, awards, and accomplishments—she is a shining example of professionalism and community involvement.

5 Fiscal Year 2025 Budget.

The Board approved the FY 25 budget, which aligns with working drafts brought forward in previous months. See page 15 for more information. License fees for 2025 have already been set; they will remain stable with no increases. The overall FY 25 budget forecasts an overall impact of about \$1.4 million of purposeful drawdown of the reserve fund.

6 FY 25 Strategic Priorities.


Informed by member feedback and prior discussion, the Board approved four strategic priorities for the coming year, which continue on the work of the current year's priorities: (1) study member well-being and expand and improve resources for and assistance to legal professionals and the legal community;

SAVE THE DATE

The next regular meeting is Nov. 7-8, 2024, in Seattle. To subscribe to the Board Meeting Notification list, email barleaders@wsba.org.

(2) assess technology-related opportunities and threats and determine the WSBA's role vis-a-vis regulation, consumer protection, and support to legal professionals; (3) improve the experience of belonging in the legal community; and (4) support rural practice and access to justice in small towns and rural parts of the state.

7 Demographic Study and Update on New DEI Plan. Thank you to everyone who participated in the WSBA's comprehensive demographic study during the past year. The findings are compiled and ready to be shared; the Board heard a few top takeaways, including the fact that the historically marginalized identity groups continue to be underrepresented in the legal community. Although that imbalance is slowly changing, the bulk of members from non-dominant identity groups are not experiencing positive, accommodating, or welcoming environments in the legal community. Look for more in-depth data and findings from the demographic study in an upcoming issue of *Bar News*. The demographic study is the foundation of a new Diversity, Equity, and Inclusion (DEI) Plan being created by the DEI Council. The plan will guide the WSBA's resources and efforts in the coming years to make strides toward its strategic goals of improving the sense of belonging for everyone in the legal community. The draft plan will be available soon, and all members will be invited to provide feedback.

8 Pilot Test of Entity Regulation. WSBA and Practice of Law Board (POLB) leaders led an information and feedback session about a draft order they will send to the Washington Supreme Court at the end of September. The order, if adopted, would create a time-bound pilot test of entity regulation under carefully controlled, data-driven conditions. What does that mean? More information here: www.wsba.org/about-wsba/entity-regulation-pilot. 



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Notices

DISCIPLINE & OTHER REGULATORY NOTICES

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 Discipline Notice Directory at <https://mywsba.org/PersonifyEbusiness/DisciplineNoticeDirectory>.

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

Disbarred

Samantha Marie Benton (WSBA No. 56376 admitted 2020) of Hood River, OR, was disbarred, effective 8/22/2024, 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=144843&s=1. Benjamin J. Attanasio acted as disciplinary counsel. Samantha Marie Benton represented themselves.

Decision document: The Washington Supreme Court Order.

Suspended

Leah Rachel Altaras (WSBA No. 39266, admitted 2007) of Seattle, WA, was suspended for 45 days, effective 8/22/2024, by order of the Washington Supreme Court. Henry Cruz and Clare Carden acted as disciplinary counsel. Kevin M. Bank represented respondent. Kenneth B. Gorton was the hearing officer. Jehiel Baer was the settlement hearing officer.

The lawyer's conduct violated the following Rules of Professional Conduct: 1.3 (Diligence), 1.4 (Communication), 1.15A (Safeguarding Property), 1.15B (Required Trust Account Records).

Altaras stipulated to suspension for: 1) withdrawing earned fees prior to giving reasonable notice to a client of respondent's intent to do so through a billing statement or other document; 2) making cash withdrawals from a trust account; 3) disbursing more funds than clients had on deposit in the trust account by using one client's funds on behalf of another; 4) failing to maintain a complete and current check register and complete and current client ledgers for a trust account; 5) failing to perform bank statement and client ledger reconciliations for a trust account; 6) failing to hold client funds in a trust account and failing to promptly deposit and hold a client's funds in a trust account; 7) failing to investigate and respond to attorney fees request while representing a client, and failing to appear at the attorney fees hearing; 7) failing to ensure a client received a copy of the attorney fees request, failing to discuss the attorney fees request or judgment with the client, and failing to inform the client about the judgment.

Decision documents: Disciplinary Board Order Approving Stipulation; Stipulation to Suspension; and Washington Supreme Court Order.

Kevin Thomas Helenius (WSBA No. 11064, admitted 1980) of Kirkland, WA, was suspended for 90 days, effective 8/22/2024, by order of the Washington Supreme Court.

Francisco Rodriguez acted as disciplinary counsel. Kevin Thomas Helenius represented themselves.

The lawyer's conduct violated the following Rules of Professional Conduct: 1.4 (Communication), 1.5 (Fees), 1.15A (Safeguarding Property), 1.15B (Required Trust Account Records), 5.3 (Responsibilities Regarding Nonlawyer Assistants).

Helenius stipulated to suspension for: 1) failing to make reasonable efforts to supervise a paralegal; 2) failing to keep a client reasonably informed about the status of the client's matter and failing to respond to the client's reasonable requests for information; 3) failing to provide a client with the agreed upon legal services and failing to refund unearned fees after the representation ended; 4) failing to deposit cash payments for fees that had not yet been earned and cash payments for costs that had not yet been incurred into a trust account; 5) failing to maintain a check register containing information required by the RPC and failing to perform the required reconciliations; 6) failing to maintain client ledgers; 7) failing to retain copies of fee agreements.

Decision documents: Disciplinary Board Order Approving Stipulation; Stipulation to Suspension; and Washington Supreme Court Order.

Reprimanded

Matthew Thomas Macklin (WSBA No. 57867, admitted 2021) of Seattle, WA, was reprimanded, effective 7/03/2024, by order of the chief hearing officer. Nate Blanchard acted as disciplinary counsel. Kenneth Scott Kagan represented respondent.

The lawyer's conduct violated the following Rules of Professional Conduct: 1.9 (Duties to Former Clients).

Macklin stipulated to reprimand for revealing information relating to the representation of a former client.

Decision documents: Order on Stipu-

lation to Reprimand; Stipulation to Reprimand; and Notice of Reprimand.

Gerald T. Osborn (WSBA No. 13712, admitted 1983) of Anacortes, WA, was reprimanded, effective 6/20/2024, by order of the hearing officer. Amanda Lee acted as disciplinary counsel. Gerald T. Osborn represented themselves.

The lawyer's conduct violated the following Rules of Professional Conduct: 1.3 (Diligence), 1.5 (Fees), 1.15A (Safeguarding Property), 1.15B (Required Trust Account Records).

Osborn stipulated to reprimand for: 1) charging and/or attempting to charge a client more than provided for by the fee agreement; 2) failing to promptly pay or deliver to the client funds the client was entitled to receive; 3) failing to take reasonable action to resolve the dispute with the client over the disputed portion of the settlement funds; 4) failing to maintain client ledgers and a current check register; 5) failing to reconcile respondent's trust account check register to the bank statements and/or by failing to reconcile the check register balance to the combined total of all client ledgers; 6) failing to provide a written accounting to the client after the distribution of property and/or at least annually.

Decision documents: Order on Stipulation to Reprimand; Stipulation to Reprimand; and Notice of Reprimand. [BN](#)

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Alex joins LHA as a senior associate. She has a wide range of experience, including defending against wrongful death claims, construction site accidents, premises liability and product liability. Alex has tried three cases to verdict as a second chair and has also served as lead counsel in many arbitration matters.

Both Natalie's and Alex's practices at LHA focus on the defense of licensed professionals and organizations including physicians, oral surgeons, chiropractors, pharmacists, hospitals, and nursing homes. LHA is thrilled to add these two incredible attorneys as part of our growing team and help carry out our mission of protecting healthcare providers so they can focus on what matters.

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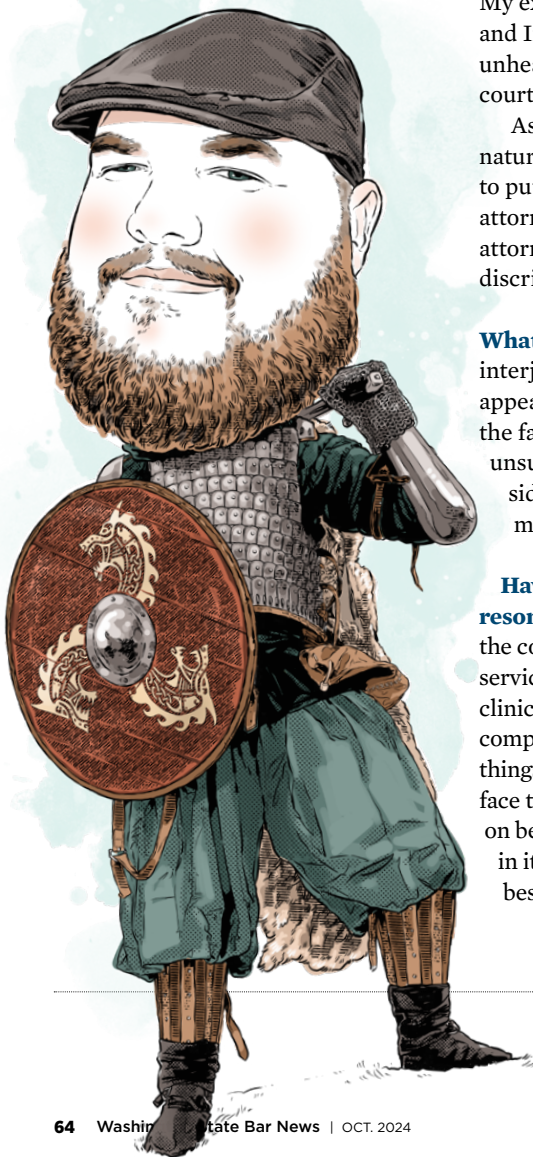




Alex Reaganson

BAR NUMBER: 59365

Hailing from Ripley, West Virginia, Alex fell in love with Washington after attending law school at Gonzaga. He currently works at Northwest Justice Project, handling housing, education, and civil rights cases. Alex also sits on both the WSBA's Pro Bono & Public Service Committee and the Washington Young Lawyers Committee.



What is the most interesting case you have handled in your career so far and why? Ooh, this is a tough one. I was previously attached to Northwest Justice Project's Native American Unit, working with Native Americans in both state and tribal courts. I had one case where a client was smudging in the house (burning medicinal plants as part of his religious practices) and was served a Notice to Comply or Vacate for violating the nonsmoking provisions of the lease. Ahead of that notice, the upstairs neighbors would call the fire department on the client, even during times when he wasn't smudging the home.

As a new attorney at the time, negotiating with the landlord's counsel to both keep the client housed and able to continue practicing and celebrating his cultural beliefs was a great learning experience. Luckily, we were able to come to an arrangement, and the client remains housed and free to engage in smudging as he needs, today.

Did you end up practicing in the area of law you expected? If not, where did you end up and why? Not at all, ha ha. I thought that I would be following my previous experience working in environmental law. While climate change is real and we need more attorneys in this area, I have always been very service-minded, too. My experience working at Gonzaga Law's General Public Practice and Indian Law Clinic reminded me that there are those often unheard and that legal systems, whether in tribal, state, or federal court, are complicated and inaccessible for too many.

As someone who grew up poor at times, lost my house in a natural disaster, and has family members who committed crime to put food on the table, I empathize and see the necessity to have attorneys in the pro bono and public interest fields. As a barred attorney, I was drawn to and felt I was better suited for housing and discrimination work, and so here we are!

What is the biggest regret of your career? I had one interjurisdictional family law case where I underestimated the appeal of the emotional argument over the facts of the case. Despite the facts and history of the case being in my client's favor, one unsubstantiated accusation from a biased witness helped the other side make the "think of the children!" argument, and we lost the motion to transfer the case because of it.

Have you had a pro bono or other volunteer experience that resonated with you? If so, please describe. I love heading out into the community and staffing pro bono clinics. With the need for legal services greater than the number of attorneys available to assist, clinics are so important to help educate clients in navigating the complex systems we have. Working in clinics also helps attorneys see things outside the office and courtroom. Let's be real here, attorneys face the stereotype that we're unaware, uninterested in what's going on beyond the lawmaking process and political spaces, and/or only in it for the money. Engaging in community clinic work is one of the best things we can do to help break that stereotype. **BN**

If you had to give a 10-minute presentation on one topic other than the law, what would it be and why? Music is such a part of my life and my first language, so probably that.

Do you have any favorite legal or philosophical debates that you enjoy having with colleagues or friends? Textualism versus original intent versus actual application.

What is one thing from your childhood that you would bring back if you could? Bionicles by Lego.

How do you unwind or recharge after a difficult day? Sing it out at the karaoke bar.

What's your go-to karaoke song? "Out There," from *The Hunchback of Notre Dame*, or "Dog Days Are Over" by Florence & the Machine.

What is one thing your colleagues may not know about you? I was bear-hugged by the Kenyan ambassador to the U.S. once.

What is the most unusual job you've ever had? At age 15, assistant campaign manager for a West Virginia House of Delegates race. (We made it past the primary, at least.)

What's the best place you've ever traveled to? San Gimignano, Italy, with New Orleans as a close second.

What is the best movie you've ever seen? *Dead Poet's Society*. RIP Robin, "Oh Captain, My Captain!"

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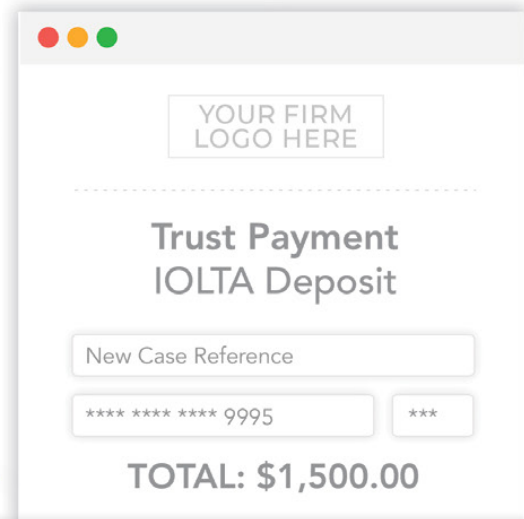
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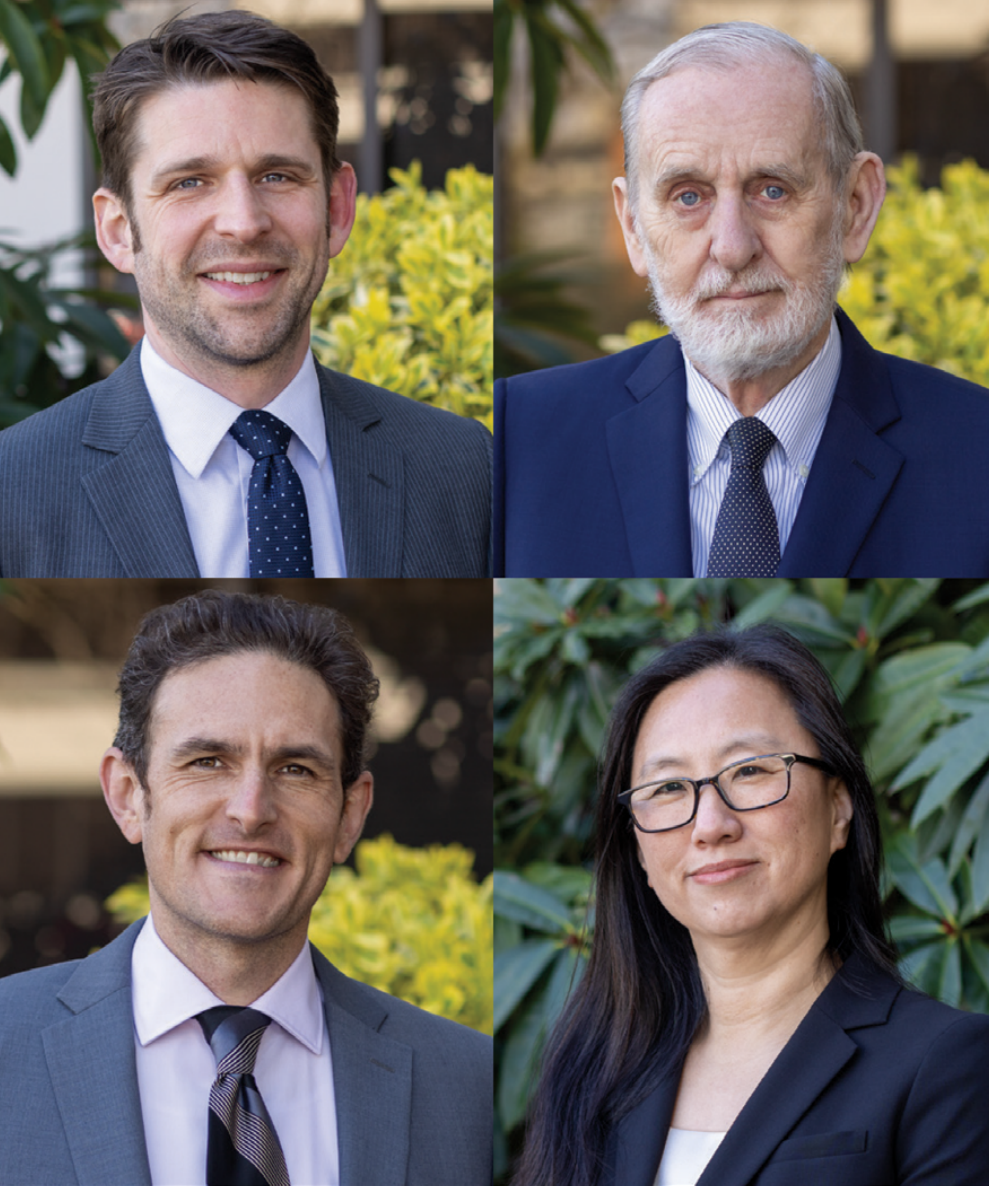
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