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WASHINGTON STATE BarNews

THE OFFICIAL PUBLICATION OF THE WASHINGTON STATE BAR ASSOCIATION



2024 WSBA MEMBERSHIP DEMOGRAPHIC STUDY

A look at the decennial deep dive that's the foundation of a renewed plan to strengthen equity and justice in the legal profession / p. 26

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Bar News Looks Like a Winner; WSBA Looks in the Mirror

In October, I attended a conference called the National Association for Bar Professionals Communications Section Workshop. Bar communications directors, PR managers, editors, social media experts, and other related staff from across the country get together to network and share ideas, discuss mistakes, and offer advice. Also at this conference, annual Luminary Awards are given out. I am happy to say that *Washington State Bar News* won two of those awards this year—

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



ON THE COVER
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one for excellence in regular publications (best magazine) and one for excellence in authored article (for WSBA staff writer and communications specialist Colin Rigley's June 2024 feature on the state of public defense in Washington, "Walking in Their Shoes"). To all who have contributed to *Bar News*—magazine staff, volunteer authors, Editorial Advisory Committee members—a wholehearted thank you.

In this issue, we are covering one of the most significant recent projects undertaken by the WSBA—the 2024 demographic study. It takes a deep look at the makeup of the legal profession in Washington (age, practice area, ethnicity, etc.) as well as the individual experiences of members. The study will inform a new Equity and Justice Plan, which will guide the next five years

of work to foster a more diverse, inclusive, and equitable legal profession. Read more on page 26.

Also in this issue: an explanation of recent amendments to CR 26 and 30 (page 35), the 2024 Washington Young Lawyers Committee Public Service and Leadership Awards (page 20), an ethics column on diligence under RPC 1.3 (page 16), and the first in a series about implementing generative AI effectively in legal teams (page 24). **BN**

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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.

Prudence Is Not Blind

I thoroughly enjoyed Elliott Schwebach's "The Nature of Justice" [October 2024 *Bar News*]. Whenever justice in the abstract comes up, I like to remind my colleagues that Lady Justice had a twin sister: Prudence. Prudence, another cardinal virtue, is the muscle that helps us "reason toward justice and then choose to act accordingly—i.e., in ways that are just," to quote Schwebach's summary of Platonism. Unlike her sister, Prudence is not blind. In fact, her token is a mirror. The law must be "impartial, universal, and relevant"; therefore, the scales of Lady Justice must be administered "blindly" to a degree. However, Prudence acts as her eyes and ears,

watching for internal biases and grotesque outcomes. Interestingly, Prudence is also associated with a serpent, and "prudent" turns out to be the best translation of *a'rum*, the descriptor for the *na'hash* in Genesis 3:1 (see also Matthew 10:16). I think the ancient creation story of Adam and Eve can be well understood by us as an essay on justice and prudence: Prudence holds a mirror up to us and humbles us. She reminds us we were once naked, and in need of the covering of the law. All this to say, a prudent and ethical lawyer is more likely to secure a just outcome for her client, and I try to keep the nature of justice up front in my practice. I look forward to more entries in this column.

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

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NW Sidebar

THE VOICES OF WASHINGTON'S LEGAL COMMUNITY

Remembering Our Friend and Colleague, Joel Paget

On Sept. 27, 2024, we lost a dear friend and colleague, Joel Paget, whose presence was a cornerstone of Ryan Swanson Law for over five decades. For those of us who worked with Joel, we admired him not only as an exceptional immigration lawyer but also [...]

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Join the Discussion: WSBA's Legislative Proposal on Washington Business Corporation Act

At its Nov. 7-8 meeting, the WSBA Board of Governors will consider a legislative proposal for Bar sponsorship. This proposal from the WSBA Business Law Section would amend the Washington Business Corporation Act (WBCA) to update provisions regarding committees of the board of directors to align more closely [...]

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Court of Appeals Affirms Dismissal of Legal Malpractice Claim on Statute of Limitation

Division III of the Washington Court of Appeals in Spokane recently affirmed the dismissal of a legal malpractice claim as time-barred in *Wood v. Dunn & Black, P.S.*, 2024 WL 4234248 (Wn. App. Sept. 19, 2024) (unpublished). While not treading any new legal ground, *Wood* is an interesting illustration of how a client's [...]

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The Benefits of Inclusion

Greetings from your Bar president! I'm excited about a number of initiatives and activities at the Bar. We have just launched a new task force on legal technology and AI.¹ We are also sharpening our focus on crisis-level shortages of legal services across Washington and planning a study to assess the mental health and well-being of our members. In July, we held our Board of Governors meeting for the first time on Tribal lands, in Nespelem. We met with representatives from the twelve Confederated Tribes of Colville, and we were honored to hear from a distinguished panel that included practitioners of Indian law, Colville Tribal Court Judge Sophie Nomee, and Washington Supreme Court Justice Raquel Montoya-Lewis. We learned about the challenges of having Indian law recognized and respected alongside state law.

We are looking forward to continued dialogue with our colleagues who hold Tribal status, judges, and wider legal communities across the state.

We have also just completed a demographic study of our membership that will inform a new strategic plan that will serve as a positive blueprint for efforts in promoting and increasing representation and belonging in the legal profession.

As the first female South Asian bar president in the country and only the sixth female bar president in Washington state since the Bar's inception, I know that representation matters for multiple reasons, including because it serves to challenge biases that plague our legal system. Bias prevents fair outcomes in the legal process. Bias hinders the proper execution of the rule of law. The issue of addressing bias has become an unfortunate bone of contention for some who consider it to be a partisan issue. I would argue that a plan of action to confront and remedy bias is neither political nor social, and that it is in fact entirely germane to the administration of justice, the provision of legal services, and the betterment of the legal profession as a whole.

Consider the landmark call to action issued by the Washington Supreme Court in its 2020 open letter addressing racial injustice in the wake of the murder of George Floyd.² The call urged every legal professional in this state to reflect on how we might work to eradicate systemic bias that has long been embedded in the profession. This was not an ideological or sociopolitical plea—it was a practical acknowledgment that a profession founded on the rule of law has an obligation to confront and mitigate, if not dismantle, barriers to equitable access to that law.

BELONGING

In my personal experience as a woman of color who has practiced law since 1990 in courts in rural Canada as well as multiple



Sunitha Anjilvel

WSBA President

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LEARN MORE

See the findings of the 2024 WSBA member demographic study on page 26.

Find the draft Equity and Justice Plan and share your input in a short survey at www.wsba.org/equity-and-justice-plan.

Send comments to diversity@wsba.org.

jurisdictions in the U.S., I became used to being an outlier, to being the “first” or the “only.” Demographics have changed, however, and the legal landscape is in the process of changing as well, which is a good thing. But change has been too slow. The findings of the WSBA’s recent demographic study demonstrate that the legal profession in Washington still does not reflect the diversity of our broader populace. More importantly, even after entering the profession, many individuals from underrepresented groups continue to face bias, exclusion, and marginalization. These findings demonstrate a need to focus not just on recruitment, but also retention and advancement, to ensure that diverse voices are authentically represented in the legal profession at all levels. This work is not about enforcing quotas, nor is it about giving undue advantages to one group or taking something away from the majority. It’s about ensuring that everyone has a fair opportunity to succeed in a profession that is reflective of the society it serves. Appreciating and promoting a sense of belonging in the legal profession across different backgrounds, gender identities, and cultures creates a profession that is not only more equitable but also more effective.

EQUITY

A common misconception about the concept of equity is that it is the same as equality. While equality is about treating everyone the same, equity goes further by acknowledging that we do not all start from the same place, and fairness requires us to respect that fact. True equity requires us to understand the unique challenges marginalized and underrepresented communities face and to work proactively to level the playing field.

THE BENEFITS OF INCLUSION

Inclusive perspectives lead to richer, more nuanced discussions and, ultimately, more just outcomes. An inclusive bench and bar bring an array of life experiences to the table, resulting in decisions that more accurately reflect the realities of the communities we serve.

If our legal profession is going to fulfill the promise of “justice for all,” we must recognize the realities of distinct communities, identities, and voices. The

SIDEBAR

WSBA Legal Technology Task Force Update

The task force, led by Jenny Durkan, was created in response to the Board of Governors' recognition in November 2023 of the transformative impact of technology, particularly artificial intelligence, on the legal profession. The 15-month task force is charged with assessing the legal technology landscape, identifying both threats and opportunities, and making recommendations that promote the ethical and effective use of technology while enhancing equitable access to justice. To achieve these objectives, the task force divided its work into four areas:

1. Key emerging technologies
2. Impacts on practice, access to justice, and consumer protection
3. Impact on courts, court rules, and procedures
4. Education and ethics

In August, the chair appointed 11 new ad hoc members to support the work groups. In October, a survey was sent to 10,000 members to gather input on technology adoption and challenges. This feedback will help shape priorities and resources in the final recommendations. The task force will update the Member Engagement Council in November 2024 and the Board of Governors in January 2025. For questions, please contact Kevin Plachy (kevinp@wsba.org) or Margeaux Green (margeauxg@wsba.org).

benefits here are not abstract; they are tangible. Embracing diversity actually strengthens the rule of law. Diverse panels, like diverse corporate boardrooms, are more likely to engage in robust debate, consider a wide array of perspectives, and come to more nuanced and thorough decisions. Stay tuned for a rollout of our Equity and Justice Plan in early 2025! [BN](#)

NOTES

1. More information about the WSBA's Legal Technology Task Force can be found at: www.wsba.org/connect-serve/committees-boards-other-groups/legal-technology-task-force.
2. The letter can be found at: www.courts.wa.gov/content/publicUpload/Supreme%20Court%20News/Judiciary%20Legal%20Community%20SIGNED%20060420.pdf.

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Models of Justice: *Distributive, Restorative, Reparative, and Transitional Models Examined*

In the last column of “Justice Examined” (October 2024 *Bar News*), the nature of justice as it underlies our modern, democratic legal system was explored. A historical journey took us from pre-Socratic Greek society to the present, demonstrating how the influence of Platonism, Roman law, and Christian theology crafted an understanding of justice as removed from nature or divinity and dependent upon a “bounded” (i.e., autonomous and agentic), rational, individual self.

Justice as we know it now is also, for the same reasons, strongly connected to the ideal of righteousness. Whereas the Homeric Greeks understood social outcomes to be directed according to many nonhuman agents, and justice to coincide with the imperatives of emotion, power, and honor, justice today is more about virtuous intentions and commitments to the law.

We grow up believing in these contemporary values because we are taught that they are good. And in many cases, even upon critical reflection, they may still be. And yet, there may also be limitations. A look back at the last half-century of democratic legal scholarship and activism shows us that one does not have to be a Vito Corleone to rethink the nature of justice in theory and practice.

Those of us who grew up in America are familiar with the massive countercultural movement that emerged in the 1960s, where activist leaders, students, and community members across identity groups questioned conventional social values (such as those of justice and state authority). Martin Luther King Jr. drew inspiration from forerunners of civil disobedience such as Henry David Thoreau and Mahatma Gandhi, as well as from his faith, to envision lawbreaking as a tool for achieving justice rather than—as the addressees of his famous “Letter from a Birmingham Jail” implied—as an impediment or threat.

American society also saw widespread opposition to the Vietnam War, as well as open experimentation with drugs, sex, spirituality, and even communal living; all of which, in different ways, challenge the importance of the reasoning mind or the purely autonomous self.

In addition to how it rethought the “badness” of breaking the law, this countercultural force provided a backdrop for legal theorists to reconsider where *responsibility* and *violence* are located in a democratic society. In the following decades, models of justice emerged that began to think about responsibility beyond the bounded, rational self, and began to question how the state could be a potential participant in social violence.

In 1971, John Rawls published *A Theory of Justice*. It is hard to overstate how large of an impact this book made on Western

jurisprudence. Until the time of its publication, justice had not been a central focus of concern for legal and political philosophy for several hundred years. With this book and his proposed model of distributive justice, Rawls convinced many, including former skeptics in the academy, to grapple with the idea that our established approaches to justice may need work.

With *A Theory of Justice*, Rawls concerns himself with the topic of social inequality. Taking the position that justice should entail fairness, he questions whether modern democratic societies—given their conditions of class difference, wealth and resource inequalities, and other forms of social stratification and oppression—actually meet this standard. Can inequality ever be just? When and how would this be possible?

Stating that “[w]e shall want to say that certain principles of justice are justified because they would be agreed to in an initial situation of equality,”¹ Rawls formulates two principles that would determine the conditions of just (and unjust) inequality. The first is called “the principle of equal basic liberties,” a familiar democratic standard maintaining that every subject should have the security of basic civil liberties such as privacy and freedom of speech.

The second is called the “difference principle,” which holds that economic inequalities can be fair, and therefore just, but only if they serve the benefit of all, including the least socially advantaged. Rawls provides the example of wealth incentives for highly talented entrepreneurs who create social good through their skills, products, or services.

Because a system that would put this model of justice into practice would necessarily entail redistributive efforts by the state, including progressive taxation and the provision of public education and training schools, his approach is given the label “distributive justice.”

Although it is both somewhat progressive and somewhat conservative at once, gaining him critics from both sides (Rawls believes that private property, for example, passes the



Elliott Schwebach

Elliott Schwebach is a WSBA Equity and Justice Lead.

The tensions between these different models suggest that justice remains challenging even for those who attempt to transform or expand it.

CONTINUED >

criteria for the difference principle, but he also advocates for a strong inheritance tax), Rawls' approach stretches conventional perspectives on justice by moving responsibility for justice far more considerably toward the state, de-emphasizing righteousness for the individual democratic subject and questioning their extent of agency in an unequal system.

Another model that emerged in the 1970s, and one that has seen practical application in many judicial settings since, goes by the name "restorative justice." This model focuses its criticism on "retributive justice" in the criminal legal system, which functions to punish lawbreakers in proportion to the severity of crimes committed.

Although many advocates of restorative justice such as Howard Zehr do not reject penalties or sentencing entirely, they aim to offer wrongdoers the opportunity to engage in discussion about the motivations behind and impacts of their crimes. This involves bringing victims into the conversation and increasing accountability, rather than shame, for offenders. It also involves reducing punishments, as well as an honest look at neglected community needs that surround criminal contexts.

Restorative justice therefore aims to open more space for considering the social environment underlying and producing criminality, acknowledging how it limits individual agency and choice, and how it changes what it means for offenders to act "reasonably" under the law. Restorative justice then seeks to change this social environment predominantly through discrete, interpersonal judicial interventions.

Yet, this approach is not without critics. For some, such as advocates of "reparative justice" (a more recent development that takes its name from the need to "repair"), a focus on the interpersonal does not go far enough to address social environments that generate inequality and crime. Proponents of reparative justice focus on longstanding systems of oppression that they observe to be more deeply rooted.

As Sangeeta Prasad of the Center for Children's Law and Policy stresses: "restorative justice is inadequate. It holds criminally charged individuals accountable,

but does not hold accountable the systems and institutions that have failed many of them."² Moreover, given that oppression can itself condition the contours or outcomes of interpersonal interaction, the methods promoted by restorative justice to increase accountability and decrease shame for criminal offenders may be met by loftier challenges than their proponents anticipate.

Prasad offers this example:

When a young Black man in largely impoverished West Philadelphia steals a bike from a professor at the University of Pennsylvania, also located in West Philly, restorative justice requires that the young person talk face-to-face with the professor, apologize and pay for the stolen item. This race- and class-blind model does little to address factors that often fuel crime.³

Reparative justice advocates therefore believe that justice requires redressing historical injustices closer to their roots. In the U.S., this would entail reforming the social and economic systems that have unduly privileged white and non-Native citizens by employing strategies such as financial reparation, land restitution, institutional accountability, and policy changes that would more effectively address mass incarceration, poverty, educational disadvantage, and social violence and trauma.

In a model like reparative justice, the state and legal system are not only given considerable responsibility for promoting justice, but they are viewed as historical sites of violence and injustice, as well; i.e., they are also criminal offenders. The same can also be said for the model of "transitional justice," a fourth approach that has emerged in legal debates and practice in recent decades.

Transitional justice has taken a strong foothold in international law because it asks questions that are pertinent to state transitions in post-conflict periods. In the aftermath of social and political conflict, how do societies reckon with human rights abuses and work toward reconciliation for national, racial, or ethnic communities that have been put at odds?

For transitional justice advocates, reparations also play a strong role, but so do criminal prosecutions for violators

of fundamental liberties. To ascertain wrongdoing and determine reparations, truth and reconciliation commissions have become a pillar for transitional justice following their use in Argentina, Chile, and, most famously, South Africa in the 1980s and 1990s.

Although transitional and reparative justice are unified by a strong emphasis on the responsibility and historical violence of state institutions, there are tensions between these approaches, as well. For example, Canada's Truth and Reconciliation Commission on the state's history of kidnapping and forcibly assimilating Native children (a practice also employed in the U.S.) drew criticism for encouraging a reconciliation between Native and non-Native Canadian citizens without proposing wider institutional changes to redress colonial legacies of dispossession.

Whereas transitional justice advocates emphasize the importance of maintaining trust in established liberal-democratic institutions, proponents of reparative justice may be more likely to espouse politically conscious, nonviolent reform for the sake of empowering the communities most marginalized by historical injustice.

By contrast, in the name of distributive justice, followers of John Rawls may campaign for sweeping changes to economic policy more narrowly, and practitioners of restorative justice may continue to push back against punishment in criminal sentencing and highlight the positive changes that may emerge for the individuals involved.

The tensions between these different models suggest that justice remains challenging even for those who attempt to transform or expand it. Wherever we each land, however, from classical individualism to radical reform, we all do "justice" to the ideal by continuing to reflect upon it. [BN](#)

NOTES

1. John Rawls, *A Theory of Justice* (The Belknap Press rev. ed. 1999) at 19.
2. Sangeeta Prasad, "More Reparative Justice, Less Restorative Justice is Needed," *Juvenile Justice Information Exchange* (May 12, 2022), <https://jjie.org/2022/05/12/opinion-reparative-justice-can-complement-restorative-justice/>.
3. *Id.*



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HARD AT WORK:

Diligence under RPC 1.3

BY MARK J. FUCILE



RPC 1.3:

“A lawyer shall act with reasonable diligence and promptness in representing a client.”

“Perhaps no professional shortcoming is more widely resented than procrastination.”

— RPC 1.3, Comment 3

Most Washington RPCs and their ABA Model Rule counterparts don’t include wide-ranging introspection like our opening quote from Comment 3 to RPC 1.3. For a one-line rule, however, RPC 1.3 on diligence produces a disproportionate share of professional discipline. Last year’s annual report on lawyer discipline in Washington, for example, reflects that 9 percent of disciplinary cases included violations of RPC 1.3.¹ That year was not an outlier; prior year reports include similar statistics, and post-pandemic percentages track pre-pandemic numbers.² Washington is not an outlier either, with Oregon, for example, reporting similar statistics over the same period.³ These disciplinary statistics are mirrored generally in national numbers on malpractice. The ABA Profile of Legal Malpractice Claims series—which goes back to 1985—has consistently reported that “administrative errors” that include subcategories like “failure to file,” “procrastination in performance,” and “failure to react to calendar,” typically comprise 20 percent of malpractice claims.⁴

In this column, we’ll survey RPC 1.3 on diligence. For context, we’ll begin with the history and component parts of the rule. We’ll then turn to practical steps lawyers and their firms can take to lessen the risk of professional discipline and civil claims in this area.

Before we do, however, three qualifiers are in order.

First, although we will focus on RPC 1.3, violations of the rule usually do not occur in isolation. Many disciplinary cases involving RPC 1.3 also include violations of RPC 1.4 for related communication failures.⁵ Others include violations of RPC 3.2 for failing to expedite litigation.⁶ Still others involve violations of RPC 1.5 for fees not earned when work was not completed.⁷ If court deadlines are missed, violations of RPC 1.1 on competence can also enter the mix.⁸ This is by no means an exhaustive list of the interplay between RPC 1.3 and other rule violations.⁹

Second, we’ll focus on civil litigation.

That said, issues surrounding diligence can surface in criminal practice in both individual cases¹⁰ and overall dockets.¹¹

Third, diligence failures occasionally occur against the backdrop of very difficult lawyer health, financial, or other personal circumstances.¹² In this column, we will survey other, more everyday scenarios and ways to address them.

CONTEXT AND COMPONENTS

RPC 1.3 does not contain a precise definition of “diligence.” The comments, however, use the phrase “unreasonable delay” in handling client work—suggesting that the

Controlling intake and establishing internal systems to encourage timely completion of work can meaningfully reduce risk if approached systematically.

phrase “diligence and promptness” effectively means moving a particular matter along at a pace appropriate to the circumstances.¹³ The comments also underscore the modifier “reasonable” and note that the duty of diligence should ordinarily coexist with common professional courtesies such as brief extensions for filings.¹⁴

The Washington rule is patterned on its ABA Model Rule counterpart. The latter was adopted as part of the original ABA Model Rules in 1983.¹⁵ The text of the rule has not changed since and the accompanying comments have not changed markedly since then either.¹⁶ The ABA Model Rule was based generally on a provision of the former ABA Model Code of Professional Responsibility that proscribed “neglect of a legal matter entrusted” to a lawyer.¹⁷ Still earlier, the ABA Canons of Professional Ethics adopted in 1908 counseled lawyers to be “punctual.”¹⁸

Washington’s rule followed a roughly similar arc. The text of Washington RPC 1.3 is identical to the ABA Model Rule and was adopted when Washington moved to the ABA Model Rules in 1985.¹⁹ It has since remained unchanged. Official comments generally paralleling their ABA Model Rule counterparts were added in 2006.²⁰ Those, too, have since remained unchanged.

RPC 1.3 weaves together two broad but related concepts.

First, Comment 2 to RPC 1.3 counsels not to take on so much work that it cannot be performed competently:

A lawyer’s work load must be controlled so that each matter can be handled competently.

In re Anshell, 141 Wn.2d 593, 9 P.3d 193 (2000), for example, involved a solo practitioner disciplined under RPC 1.3 when he couldn’t keep up with “200 open cases at any given time, review[ing] 10 files per day, and receiv[ing] 30 telephone calls per day.”²¹

Second, Comment 4 to RPC 1.3 reminds lawyers that ordinarily they must complete what they have taken on:

Unless the relationship is terminated as provided in Rule 1.16 [withdrawal], a lawyer should carry through to conclusion all matters undertaken for a client.

In re Van Camp, 171 Wn.2d 781, 257 P.3d 599 (2011), for example, involved a lawyer disciplined for failing to complete agreed work on a single case.

Mark J. Fucile of Fucile & Reising LLP handles professional responsibility and risk management for lawyers, law firms, and legal departments throughout the Northwest. He is a former chair of the WSBA Committee on Professional Ethics and has served on the Oregon State Bar Legal Ethics Committee. He is editor-in-chief of the WSBA’s *Washington Legal Ethics Deskbook* and is a principal co-editor of the WSBA’s *Law of Lawyering in Washington* and the OSB *Ethical Oregon Lawyer*. He also teaches legal ethics as an adjunct for the University of Oregon School of Law at its Portland campus. He can be reached at 503-860-2163 and mark@frllp.com.



ADDRESSING RISKS

Given the prominent role of RPC 1.3 in lawyer discipline, a fair question to ask at this point is: How does a one-line rule that hasn’t changed in nearly 40 years cause so much trouble?

The twin threads just noted suggest both the reasons and how to address them. While internal controls alone won’t change a person’s nature,²² controlling intake and establishing internal systems to encourage timely completion of work can meaningfully reduce risk if approached systematically.

Controlling intake is admittedly easier said than done. Lawyers by nature want to use their legal skills to help clients. Economic pressures, too, are a constant pressure in private practice. At the same time, lawyers—especially those who are solos or at small firms where getting assistance from others may not be an option²³—need to realistically assess their capacity before taking on the next matter. That is not a static exercise: A lawyer who is working 16-hour days preparing for trial may have sufficient capacity to take on new work when the trial unexpectedly resolves. It is, however, a question that must be asked.²⁴ Comment 3 to RPC 1.3 notes that while not all diligence failures result in catastrophic client harm, almost all “cause a client needless anxiety and undermine confidence in the lawyer’s trustworthiness.”²⁵ The principal defense the lawyer offered in *Anshell* was that his practice was so busy that inevitably some “cases ‘fell through the cracks.’”²⁶ The Supreme Court suspended the lawyer.²⁷

Following through on matters to completion can also be easier said than done. Yesterday’s “great case” on intake may turn out to be “not so great” after initial investigation. Lawyers need to remember, however, that even the “not so great” case remains important to the client involved. As the Washington Supreme Court put it in a case disciplining a lawyer for lack of diligence: “Of necessity ... [clients] ... look to the legal profession for advice and resolution of their problems and ultimately for the satisfactory as possible end to the tempest and turmoil in which they are embroiled.”²⁸ Even if yesterday’s “great case” remains that way going forward, it may still be competing for attention with others that, for a variety

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of reasons, seem more pressing at the moment. Beyond calendaring court deadlines, lawyers should establish internal law firm reminders to schedule adequate time to accomplish particular tasks. In other words, although it is important to calendar a summary judgment deadline, an additional reminder two weeks earlier will help a lawyer actually meet the deadline. Both general calendaring programs common in law practice and tailored practice management software are well-tuned to add systematic reminders and deadlines. Having more than one person monitor those deadlines can be equally important. A calendar reminder might be quickly deleted, but a trusted assistant standing at the lawyer's office door (or the electronic equivalent) saying "What about the motion that is due on Friday?" is more difficult to ignore.

Lawyers should establish internal law firm reminders to schedule adequate time to accomplish tasks.

SUMMING UP

Over 50 years ago, the Washington Supreme Court observed that "[p]rocrastination and delay in handling of legal affairs not only induces a client to lose confidence in his attorney but reflects badly on the profession and the courts, and may foster an impression in the public mind that the highly-vaunted standards of professional ethics are no more than a sham."²⁹ Although many things have changed in law practice since then, the importance of diligently handling client work is not one of them. [BN](#)

NOTES

- 2023 Washington Discipline System Annual Report at 18 (2024), available at bit.ly/4aW13Zd.
- In 2018, for example, 9 percent of cases imposing discipline included violations of RPC 1.3. 2018 Washington Discipline System Annual Report at 15 (2019).
- See Oregon State Bar Disciplinary Counsel Annual Reports, available at www.osbar.org.
- See, e.g., ABA, *Profile of Legal Malpractice Claims 2016-2019 at 22-23* (2020); Shoemaker rel. *Guardian v. Ferrer*, 168 Wn.2d 193, 225 P.3d 990 (2010) (legal malpractice claim arising from multiple failures to file required documents or appear at trial).
- See, e.g., *In re Cohen*, 149 Wn.2d 323, 67 P.3d 1086 (2003).
- See, e.g., *In re Lopez*, 153 Wn.2d 570, 106 P.3d 221 (2005).
- See, e.g., *In re DeRuiz*, 152 Wn.2d 558, 99 P.3d 881 (2004).
- See, e.g., *In re Conteh*, 187 Wn.2d 793, 389 P.3d 591 (2017).
- For a national compilation of cases addressing violations of state versions of ABA Model Rule 1.3 often occurring within the context of multiple rule violations, see ABA, *Annotated Model Rules of Professional Conduct* at 64-72 (10th ed. 2023).
- See, e.g., *In re Longacre*, 155 Wn.2d 723, 122 P.3d 710 (2005) (lawyer disciplined for, among other things, violation of RPC 1.3 in the context of a criminal case that also involved a finding of ineffective assistance).
- See, e.g., WSBA Advisory Op. 1336 (1990) (addressing intersection of public defender caseloads and effective representation); ABA Formal Op. 06-441 (2006) (same).
- See, e.g., *In re Wickersham*, 178 Wn.2d 653, 310 P.3d 1237 (2013) (health problems); *In re Starczewski*, 177 Wn.2d 771, 306 P.3d 905 (2013) (financial problems); *In re Whitt*, 149 Wn.2d 707, 72 P.3d 173 (2003) (difficult personal circumstances). See also ABA Formal Ops. 03-429 (2003) (impaired lawyers within firm), 03-431 (2003) (impaired lawyers outside firm).
- RPC 1.3, cmt. 3. See also *Black's Law Dictionary* (11th ed. 2019) (defining "diligence" as the "[s]teady application to one's business or duty"); *Restatement of the Law Governing Lawyers* § 16, cmt. d (2000) ("The lawyer must use those capacities diligently, not letting the matter languish but proceeding to perform the services called for by the client's objectives[.]").
- RPC 1.3, cmts. 1, 3.
- ABA, *A Legislative History: The Development of the ABA Model Rules of Professional Conduct, 1982-2013* (ABA Legislative History) at 65-66 (2013).
- Id.* at 67-70. In 2002, the ABA adopted Comment 5 to Model Rule 1.3 recommending that solo practitioners prepare a plan designating another lawyer to handle the solo's files in the event of the solo's death or disability. Washington did not adopt that comment, with Comment 5 to Washington RPC 1.3 listed as "Reserved."
- See *ABA Legislative History* at 66, speaking to former DR 6-101(A)(3). See also Thomas R. Andrews, Robert H. Aronson, Mark Fucile & Art Lachman, *The Law of Lawyering in Washington* at 5-5 (Wash. State Bar Assoc. 2012) (hereafter *Law of Lawyering*) (discussing the change from "neglect" to "diligence"). Comment 1 to ABA Model Rule 1.3 includes the word "zeal" (along with variants of that word in three places in the Preamble). Although "zeal" made its initial appearance in the ABA Canons in 1908 in the positive sense of being dedicated to clients' interests, over time it took on a negative connotation as an excuse for bad behavior by lawyers ostensibly in the service of their clients. As a result, the prominence of the word "zeal" has been diminished, as noted in the ABA Model Rules, and eliminated altogether in the Washington RPCs (and the accompanying comments). See generally *Law of Lawyering* at 5-6.
- ABA Canon 21.
- 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, 837 (1986) (surveying the then-newly-adopted Washington RPCs, including RPC 1.3).
- See Washington Supreme Court Order 25700-A-851, July 10, 2006 (adopting changes to the Washington RPCs—including official comments—recommended by the WSBA's "Ethics 2003" Committee); see also Reporter's *Explanatory Memorandum to the Ethics 2003 Committee's Proposed Rules of Professional Conduct* at 6 (2004) (on file with author). As discussed earlier, the Washington Supreme Court did not adopt Comment 5 to ABA Model Rule 1.3.
- 141 Wn.2d at 598.
- For example, the Washington Supreme Court in *Matter of McGough*, 115 Wn.2d 1, 6, 793 P.2d 430 (1990), described the lawyer involved as having a "chronic procrastination problem."
- RPC 1.3 violations are not the exclusive province of solo or small firm lawyers. *In re Petranovich*, 26 DB Rptr. 1 (Or. 2012), for example, involved a large-firm lawyer who took on a pro bono case and then ignored it. He was disciplined under Oregon RPC 1.3.
- This assumes the lawyer is competent to handle the matters involved. See RPC 1.1, cmts. 1-2 (addressing competence or gaining competence to handle a new matter); see, e.g., *In re Pfefer*, 182 Wn.2d 716, 727, 344 P.3d 1200 (2015) (rejecting defense that lack of diligence was caused by "confusion" about applicable local court rules).
- In the regulatory context, proof of actual harm is not required to establish a violation of RPC 1.3. See *In re Burtch*, 112 Wn.2d 19, 26-27, 770 P.2d 174 (1989).
- In re Anshell*, 141 Wn.2d 593, 610, 9 P.3d 193 (2000).
- Id.* at 620. The lawyer was later disbarred for similar conduct. See *In re Anshell*, 149 Wn.2d 484, 69 P.3d 844 (2003).
- In re Burtch*, 112 Wn.2d at 27.
- In re Vandercook*, 78 Wn.2d 301, 304, 474 P.2d 106 (1970) (decided under the former Canons of Professional Ethics).

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2024 PUBLIC SERVICE & LEADERSHIP AWARD RECIPIENTS

Displaying leadership through service, four local leaders stand out

ALEXANDER R. REAGANSON

Earlier this year, the Washington Young Lawyers Committee (WYLC) asked the legal community to nominate new or young lawyers who have gone above and beyond in serving their communities for its annual Public Service and Leadership Awards. This year's award recipients stood out by displaying a history of exemplary leadership and commitment to public service and pro bono work.

For each nominee, the committee weighed the following factors: (1) leadership and service in the local community or within a bar association; (2) mentoring; (3) involvement in WSBA, American Bar Association, and/or local bar association activities; and (4) volunteer work with pro bono or public service programs.

After plenty of deliberation over the largest number of nominations we've received in recent years, the committee is pleased to announce Ndiabou Diagana, Coco Avery Holbrook, Casie Rodenberger, and Brittany Tri as the 2024 Public Service and Leadership Award recipients.

MAKING THE CHOICE TO SERVE

Robert Greenleaf, author of *The Servant as Leader*, said, "The first and most important choice a leader makes is the choice to serve, without which one's capacity to lead is severely limited."

This year's Public Service and Leadership Award recipients all have made that choice, showing us that a public service ethic paired with commitment to the community is the foundation for successful leaders. The WSBA and the WYLC are proud to have such inspiring members working to help Washingtonians. Congratulations to the 2024 WYLC Public Service and Leadership Award recipients! [BN](#)



Ndiabou Diagana

Diagana is a city attorney for the City of Burien and was previously honored by the University of Washington School of Law with the Jack Macdonald Merit Award in recognition of her commitment to public service and leadership.

A former volunteer Court Appointed Special Advocate, since graduating from law school in 2019 Diagana has continued to embody the word "advocate" as a city attorney working to ensure that justice continues to be accessible for all. Additionally, Diagana uses her engineering background to help business owners from diverse communities protect their intellectual property and is a regular volunteer at legal clinics in King County. As an immigrant, Diagana brings a unique perspective to the Washington legal profession and a passion for giving back to the community.



Coco Avery Holbrook

Recently promoted from “kitchen sink” generalist to assistant managing attorney for Northwest Justice Project’s Wenatchee field office, Holbrook also volunteers with Wenatchee Pride and is a member of Disability Rights Washington.

A not-so-recent East Coast transplant, Holbrook graduated from Boston University School of Law in 2018 and came to Washington ready to bring mental health and civil rights advocacy to Central Washington’s rural communities. Holbrook helped establish and continues to elevate Northwest Justice Project’s special education practice, as well as making sure that a rural perspective is considered in the organization’s statewide advocacy efforts. Never one to shy away from a little “good trouble,” Holbrook goes above and beyond for their clients, even if it means taking on water quality issues in a community on top of a client’s utilities and eviction case.



Casie Rodenberger

Rodenberger strives to be one of Bellingham’s best as an attorney with Whatcom Law Group, while also serving as the vice president for public service of the statewide organization Washington Women Lawyers.

Once a member of the University of Iowa College of Law’s (’18) Pro Bono Society and now an American Bar Association Fellow, Rodenberger has focused her practice and life on seeing and solving the problems regular people face with institutions of power. Whether helping folks get transitional housing as a board member of Sun Community Services, or covering for her support staff in a pinch, Rodenberger’s service-minded record and passion speaks for itself.

Alexander R. Reaganson is a staff attorney at Northwest Justice Project’s Vancouver office and chair-elect of the Washington Young Lawyers Committee. He can be reached at alexander.reaganson@nwjustice.org.



Brittany Tri

The lead associate at Alford & Associates, PLLC, Tri volunteers at the Everett’s FIRST Legal Clinic to help prevent unnecessary child removals by CPS and to make prenatal and post-natal support available to at-risk parents.

Tri is a lifelong Washingtonian who grew up in Lake Stevens and graduated from the University of Washington School of Law in 2015. Starting with UW’s Human Rights and Street Law clinics, Tri continues her passion for volunteer service as a board member for Sound Pathways, which provides harm reduction and case management services in Snohomish County. Tri’s commitment to this work is so strong that, in a case with FIRST Legal Clinic, she made sure a former client had childcare while the client took the time she needed to address the issues she was facing. If that doesn’t deserve recognition, then the committee couldn’t tell you what does.

GRAPHICALLY SPEAKING:

Strategic Fiscal Oversight Keeps License Fees Steady

BY WSBA STAFF

Since 2018, Washington's active attorney license fee has increased by a total of \$9, and 2025 will mark the sixth year in a row with no increase at all. That's a calculated effort, quite literally. WSBA leaders have made strategic financial decisions to prioritize license-fee stability for members, even as inflation rates in the Puget Sound region have grown by more than 8 percent annually in recent years.¹

That's quite a feat. License fees are, by far, the WSBA's primary source of revenue, and the rate of membership growth is slowing, not nearly keeping pace with the rising cost of business. In 2024, we issued the fewest new bar cards since 1996 while the percentage of retirement-aged members continued to grow. When it comes to expenditures, the bulk of programs and services performed by the WSBA are not optional.

With such constraints on revenue and expenditures, our streak of years with no license fee increase has been possible because of significant, strategic fiscal counterbalances in the form of operational efficiencies, capitalization on market conditions, and careful shepherding of reserve funds. We have adhered to a budgeting value, spearheaded by our Board of Governors, whereby we responsibly utilize all available options before leaning on the license fee for additional revenue.

The most recent example is the renegotiation of our office space lease. After extensive research, outreach, and long-term analysis, we took advantage of the downtown Seattle

rental market this year to negotiate a new lease that will save us over \$900,000 (about \$25 per member) *per year*, for the next 10 years, compared to our previous agreement. Pulling on this thread, one of the main money-saving factors in our new lease is a significantly consolidated floorplan for WSBA staff (a 45 percent reduction in square footage), born from emergency-induced changes in workforce operations during the COVID-19 pandemic that have now become best practices for employees and volunteers; these in-

clude a robust technology network and protocols to support fully remote participation.

Since 2020, we estimate we have saved about \$150,000 annually in travel and meeting expenses because of this revolution. Better yet, we have been able to achieve greater coverage and engagement across the state, not just for volunteers but also for WSBA staff, to the benefit of all members. The locations from which our employees work remotely span from Pasco to Bellingham, from Spokane to Yelm.

License fees have also benefited from recent unexpectedly high returns on investments. As a rule, we are conservative investors, aiming to safeguard our association's reserves while taking advantage of market opportunities. Since 2022, we've earned over \$1.8 million in interest income and have continued to lock in healthy interest rates on conservative fixed-income investments. These larger-than-anticipated returns, alongside operational savings, have helped us bank money each year when we would have otherwise run a deficit.

These reserve funds are a foundational pillar in all of our short- and long-term financial plans. We have been thinking carefully about our policies to sufficiently build these "rainy day" reserves, and behind the minutia and complexity of our decisions, here's what is important to know: Our oper-

THOUGHTS FROM YOUR WSBA GOVERNORS

"The WSBA has always managed to get a really good deal on property. This newest deal though has used lessons from the pandemic, market pressures, and the threat of moving as leverage to secure a contract that allows us to maintain a presence that is easily accessible to the majority of members while saving substantial amounts of money in both rent and moving costs."

Jordan L. Couch, *At-Large Governor*



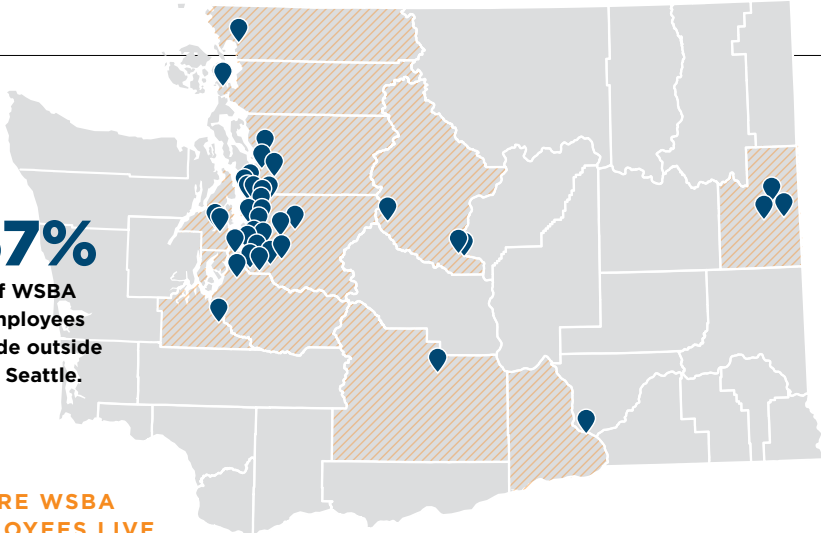
"Our predecessors on the Board of Governors did a fantastic job selecting modest office space owned by the University of Washington. With the use of electronic meeting and document storage technologies, we were able to significantly reduce our rented space while retaining the hearing room, meeting spaces, and communication technologies that had already been built out for us. The confluence of the present office market and our landlord's desire to retain our tenancy resulted in a lease renewal with spectacular savings to the WSBA and its members."

Kevin Fay, *District 9 Governor*



57%

of WSBA employees reside outside of Seattle.



WHERE WSBA EMPLOYEES LIVE

Of the WSBA's 145 employees, 63 call Seattle home. While many live in and around King County, WSBA employees now represent 11 counties across the state.

ational and investment strategies have been paying off, contributing to a healthy general reserve fund, in excess of the minimum policy requirement of \$2 million at all times. That allows us, when budgeting, to factor in a planned spend down of the unrestricted reserve fund to prioritize license fee stability for members.

Which brings us to the close of fiscal year 2024 on September 30. For the first time in almost a decade, we do anticipate spending a small portion of our reserves; however, we expect to outperform against the fiscal year 2024 budget that anticipated a use of reserves of \$970,000. This means our reserves would decrease compared to a year ago when we had net positive revenue and added to our reserves. That's OK—as expected. But the outcome of the fiscal year 2024 budget is a harbinger. In the not-too-distant future, we are going to need to reconcile the ever-rising cost of business (inflation) with our primary revenue source (fees) to remain solvent. We have stretched our efficiencies and investments to the max. Our crystal ball is not a perfect predictor of what the future may hold, and we may even see a growth in membership due to some licensing initiatives from the Washington Supreme Court.

Given all this information, the WSBA Budget and Audit Committee (B&A) is coalescing around the idea of a “soft landing” for members—that is, gradual annual increases in the license fee to align with the true cost of doing business rather than remaining steady until there must be a substantial fee hike. (The latter, for example, is what is happening in California this year, with fees increasing \$88 after remaining flat since 2020.) Toward that end, B&A is recom-

mending a \$10 net increase to fees in 2026. In March, the Board of Governors will meet for a budget retreat where they will explore developing a philosophy that can be applied long-term and would incorporate a plan to translate the “soft landing” approach to support change in the next few years into a philosophy.

What does that mean? The main idea under consideration is an automatic inflation factor built into the fee each year, which can be mitigated by use of reserves. Put in practice for 2026—at the November 7-8 Board of Governors meeting, B&A recommended setting attorney license fees at \$468, which is a \$10 increase. This amount was arrived at by applying the Washington L&I COLA adjustment for 2024-2025 of 5.9 percent, resulting in a \$27 fee increase, minus a \$17 use of reserve funds. Looking to the future, this type of budgeting approach might allow us to be mindful of the “soft landing” we need to operate sustainably while respecting members’ pocketbooks.

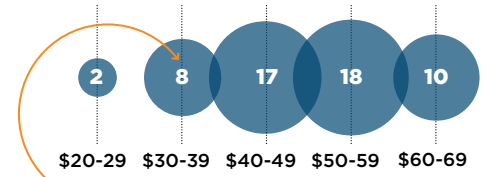
We are going to expand these conversations to include you in the coming months as we continue to explore a long-term, sustainable license fee philosophy. We want you to know about the strategic financial decisions we have made to keep the license fee flat for so long. We want you to understand the gap we are facing between rising costs and flat revenue. Mostly, we want your input about a sustainable fiscal future for the WSBA. Look for more information in *Bar News* in the months ahead. [BN](#)

NOTE

1. www.bls.gov/regions/west/news-release/consumerpriceindex_seattle.htm.

RENT PER SQUARE FOOT

Number of properties in each price category

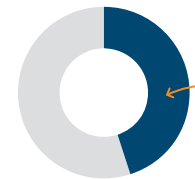


The WSBA's new lease at the Puget Sound Plaza building is at the low end of the \$30-39 price range.

OLD LEASE

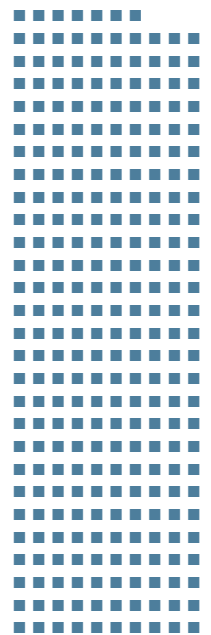


50,590
square feet spread over 3.5 floors



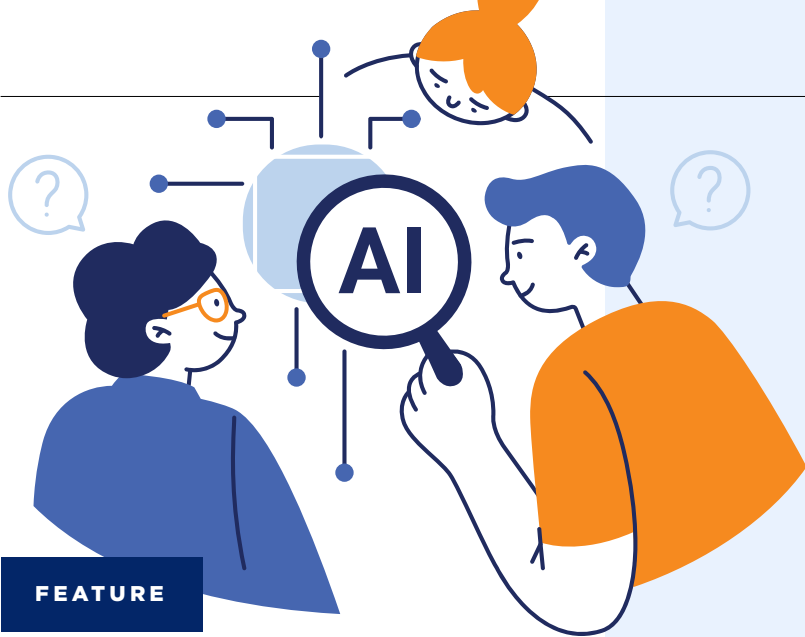
45%
reduction in overall office space.

NEW LEASE



27,685
square feet spread over 2 floors

Note: Each square represents 100 square feet



FEATURE

IMPLEMENTING GENERATIVE AI EFFECTIVELY IN LEGAL TEAMS

BY ROBBIE PHILBRICK, RACHEL WILKA & MICHAEL CALLIER

Generative AI (GenAI) has emerged as a groundbreaking subset of artificial intelligence (AI) with the potential to revolutionize virtually every industry, including the legal field. GenAI is capable of creating new and original content, rather than simply processing or analyzing existing data. For legal teams, this presents both exciting opportunities and unique challenges that can vary depending on the type of user.

The landscape of AI users in the legal industry can be viewed through various lenses. One way to categorize users is into developers, content creators, and everyday users. Developers leverage AI to design and build technological solutions. Content creators, including lawyers and paralegals, use AI tools to generate legal documents like contracts, briefs, and memos. Everyday users interact with AI through common tools like email auto-complete, web searches, and voice command agents like Amazon's Alexa.

This article represents the first in a series that will help legal teams of content creators better navigate their GenAI journeys. To get started, we clarify terminology, then share key factors to consider before implementing GenAI to help teams find and implement tools for their specific needs and use cases.



COMING SOON

The next article in this series will cover the importance of data in your GenAI journey and steps to leverage it for more accurate results when using GenAI tools.

KEY TERMINOLOGY

Working effectively with GenAI requires legal professionals to understand and adopt new vocabulary. The following terms are critical on that learning journey:

Artificial Intelligence (AI): Computer systems that can perform tasks that typically require human intelligence, such as natural language processing (defined below), recognizing patterns, or making predictions.

Generative AI (GenAI): A type of AI specifically designed to create new content—such as text, images, audio, video, code, or other data types—using generative models based on patterns learned from existing data.

Foundation Models: An AI model trained on vast amounts of text data, capable of performing a wide range of natural language processing tasks including text generation, summarization, translation, and human-like question-answering (e.g., ChatGPT, Claude, Titan).

Machine Learning (ML): A type of system that learns and improves from experience by inferring patterns beyond explicit programming.

Natural Language Processing (NLP): A branch of AI focused on enabling computers to understand, interpret, and generate human language.

7 KEY CONSIDERATIONS FOR IMPLEMENTATION

When considering GenAI implementation, legal teams should follow a structured decision-making process aligned with their organization's strategic goals and operational realities. A few considerations to keep in mind when starting:

1. Objectives and Use Cases

- Specify what you expect AI to help with (e.g., contract drafting, legal research, due diligence).



- Set measurable goals for efficiency gains or cost savings.
- Prioritize use cases based on potential impact and feasibility.

As you define objectives, evaluate how the AI solution will integrate with existing platforms and workflows. Seamless integration is key to ensuring successful adoption and maximizing the technology's benefits.

2. Your Team's Needs and Readiness

- Identify pain points and inefficiencies in your current processes.
- Evaluate the complexity and volume of your legal work.
- Assess your team's technical skills and openness to new technologies.
- Review your current technology infrastructure.
- Review your knowledge infrastructure to ensure available knowledge meets the desired use cases.

When assessing your team's needs, consider the specific efficiencies an AI solution can provide, such as accelerating contract review or enhancing the depth of legal research. Also, evaluate what optimal processes for reviewing and validating AI-generated content would look like for your team.

3. Off-the-Shelf (OTS) or Custom Solutions

- Research existing GenAI solutions that cater specifically to legal teams.
- Assess your organization's data availability and quality.
- If considering a custom solution, determine if your organization has adequate internal technical resources to build and maintain it.

When considering potential solutions, develop robust requirements to help base your decision on concrete metrics, such as number of users, price, and technical requirements. Ensure solutions meet your specific needs and scale to align with your long-term goals.

4. Resource Requirements

- Determine the budget available for AI implementation.
- Identify any necessary upgrades to your technical infrastructure.

Robbie Philbrick is an operations-driven attorney and project consultant specializing in digital transformation and strategic process implementation.



At Epiq, he architects quality control systems and resolves complex class action registrant conflicts arising from a \$5.5 billion antitrust settlement. He received his J.D. and Technology Entrepreneurship Certificate from the University of Washington.

Rachel Wilka is an experienced product attorney and chief of staff with a decade of experience advising companies on their strategy and use of emerging technologies. She received her J.D. from the University of Washington.



Michael Callier leads UHY Prime's San Francisco office. He is a corporate lawyer, information scientist, and consultant with over 20 years of experience working in law firms, legal departments and ALSPs. He guides organizations and legal departments through complex change. Callier received his J.D. from the University of Oregon and M.S. in Information Management from the University of Washington. He is fluent in English and Mandarin Chinese.



- Plan for staff training and change management.

As part of resource assessment, determine specific training needs for your team to effectively use and manage the AI tools. Consider how to ensure both ongoing IT support and that users remain proficient with the evolving technology.

5. Applicable Risks and Risk Management Strategy

- Identify potential risks, including data privacy and ethical concerns.¹
- Consider the scope of impact that could result from incomplete, inaccurate, or discriminatory model outputs.
- Create protocols for human oversight and quality control.
- Ensure compliance with relevant regulations and company policies.

6. Scalability and Future Needs

- Consider how the AI solution can grow with your legal department.
- Anticipate future use cases or expansion into new legal areas.
- Plan for ongoing evaluation and iteration of your AI implementation.

7. Key Indicators of Impact and Progress

- Time saved on routine tasks.
- Reduction in outside counsel spend.
- Increased capacity for high-value work.
- Improved accuracy in contract review or legal research.
- User satisfaction among your legal team.

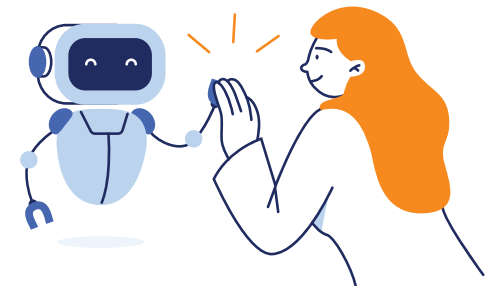
CONCLUSION

GenAI represents a significant opportunity for legal teams to enhance their efficiency, accuracy, and strategic value to their organizations. By following a structured decision-making process, carefully considering the unique needs and constraints of your legal department, and proactively managing risks, you can harness the power of AI to transform your legal operations.

Successful AI implementation is an ongoing process. To increase the likelihood of success, stay informed about emerging trends in legal AI, continue to refine your use cases, and maintain open communication with your team about the role of AI in your work. By leveraging GenAI's capabilities, your legal department can transform its operations, tackling complex challenges with greater speed and insight while freeing up valuable time for high-level strategic work to support your organization. **BN**

NOTE

1. Mark Fucile, "The Chatbot Made Me Do It!" *Washington State Bar News*, November 2023, <https://wabarnews.org/2023/11/16/the-chatbot-made-me-do-it/>.



2024 WSBA MEMBERSHIP DEMOGRAPHIC STUDY

A look at the decennial deep dive that's the foundation of a renewed plan to strengthen equity and justice in the legal profession

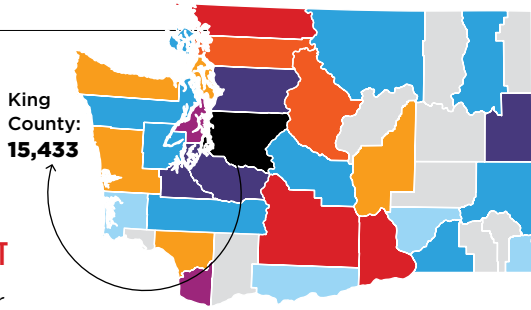


COMPARE & CONTRAST

WSBA member demographics for 2012 & 2024

In 2012, the WSBA license counts included the following: active, educational purposes, emeritus, foreign house counsel, foreign law consultant, honorary, inactive, indigent representative, judicial, non-member emeritus, and military.

Currently, there are three license types authorized by the Washington Supreme Court to practice law: lawyers, limited license legal technicians (LLTs), and limited practice officers (LPOs). WSBA license statuses include active, inactive, judicial, and pro bono. LLTs and LPOs were not members of the WSBA in 2012 and were therefore not included in the 2012 license count.



BY COUNTY RESIDENCE

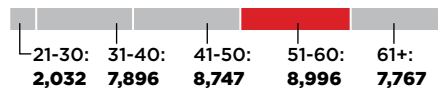


2012

Total license count: **35,438**

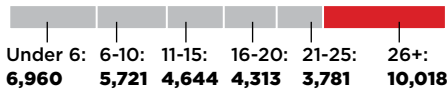
BY AGE

25.4%

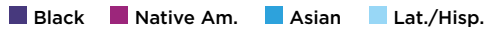
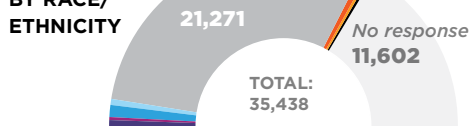


BY YEARS LICENSED

28.3%



BY RACE/ETHNICITY



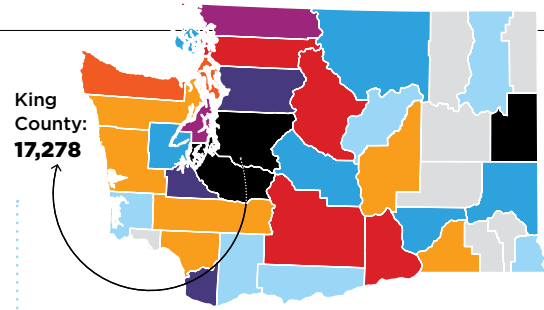
BY GENDER



* - Gender Non-Conforming; Genderqueer; Non-binary; Not Listed; Selected Multi Gender; Transgender; Two-Spirit

LGBTQ+ IDENTIFYING: 436

DISABILITY IDENTIFYING: 452



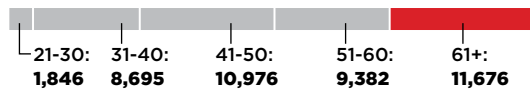
BY COUNTY RESIDENCE

2024

Total member count as of Nov. 1, 2024: **42,576**

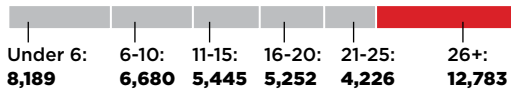
BY AGE

27.4%

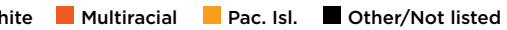
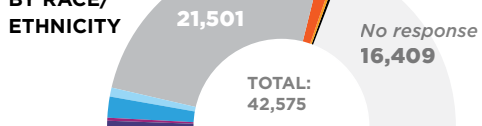


BY YEARS LICENSED

30%



BY RACE/ETHNICITY



BY GENDER



LGBTQ+ IDENTIFYING: 1,079

DISABILITY IDENTIFYING: 1,412

BY WSBA STAFF

Who are we as a legal community in Washington state? Not just in terms of statistics that are easily counted—practice area, age, ethnicity—but also the less quantifiable individual experiences that, collectively, form the culture of our profession?

That question is central to the WSBA's mission "to serve the public and members of the Bar, to ensure the integrity of the legal profession, and to champion justice." We cannot support and strengthen the legal profession without understanding the makeup and experiences of Bar members. We cannot advocate for equitable outcomes for all without addressing the wide gulf in representation between Bar members and the diverse communities who need legal help.

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2024 WSBA Membership Demographic Study

CONTINUED >

With these goals in mind, the WSBA committed to a comprehensive demographic study every 10 years as the foundation of a plan to advance a more diverse, inclusive, and equitable legal profession. Our first such demographic study was in 2012, resulting in a landmark Diversity and Inclusion Plan in 2013. For the first time, the WSBA in that plan outlined a wide-ranging, data-driven, long-term pledge and accompanying action steps to drive its equity work.

And as promised in that original plan, we are back a decade later, with another comprehensive demographic study and a renewed call to action to work toward a more diverse legal profession where everyone feels they belong. We are shifting from simply making the business case for diversity to making systemic changes that result in a more equitable legal profession and accessible justice system for all. We have the 2024 data and findings in hand, ready to share widely with the membership. And we have used the data to draft a renewed plan, now called the Equity and Justice Plan, to guide us for the next five years.

Looking back and looking forward, we are proud of the groundwork laid by the 2013 plan while feeling the urgency to re-launch and renew our equity efforts. In the past 10 years, we have named and galvanized our values and commitment; provided education, training, and forums for dialogue; and taken important steps like including an equity assessment with all decisions that come before the WSBA Board of Governors. Lastly, we have listened and learned, realizing—alongside society at large—how much critical work remains to be done.

Please review the results and findings of our 2024 member demographic study in this issue of *Bar News*, then take the next step by visiting www.wsba.org/equity-and-justice-plan to read the draft Equity and Justice Plan and provide feedback. In the coming months, we will cover the progress of the Equity and Justice Plan, which

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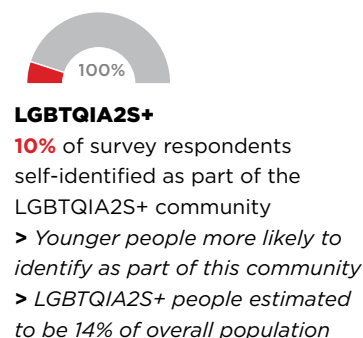
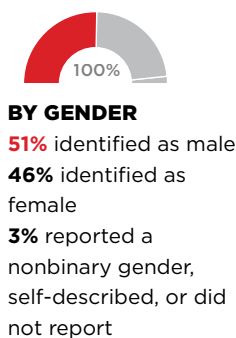
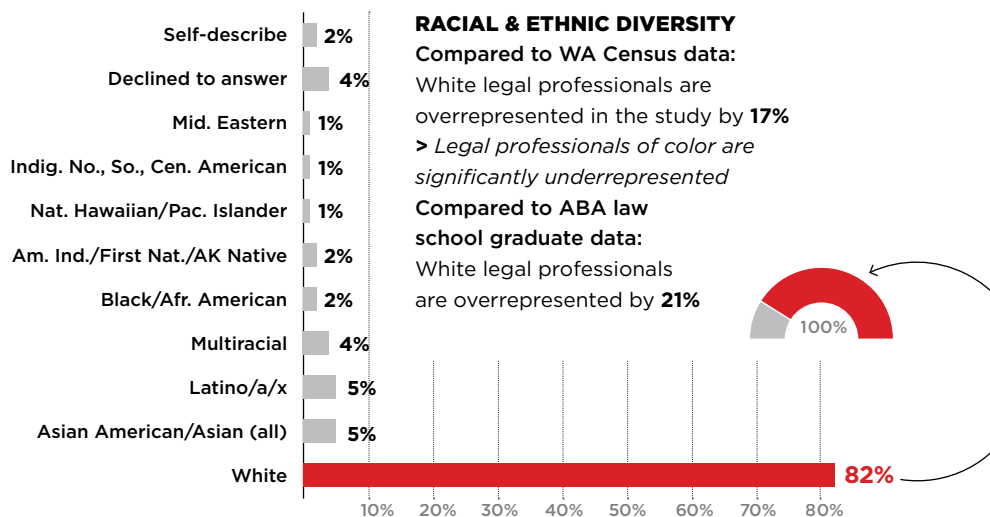
5 KEY FINDINGS

What the survey data says about member experience and retention

FINDING

No. 1

The WSBA membership is becoming increasingly more diverse over time, though progress is slow. Our profession still does not reflect the diversity of our state population.



PROGRESS IS BEING MADE, BUT SLOWLY

Women and members of color have been in the legal profession for less time than their white, male counterparts who have been practicing longer. Diversity may increase over time if equity and inclusion efforts are made so underrepresented groups stay and thrive in the profession.

YEARS A MEMBER	TOTAL	Black/Afr. Amer.	Native American	Asian	Hisp. or Latino/a/x	White	Women
16+ years	57%	43%	44%	46%	33%	58%	46%
1-15 years	43%	57%	56%	54%	67%	42%	54%

5 KEY FINDINGS

What the survey data says about member experience and retention

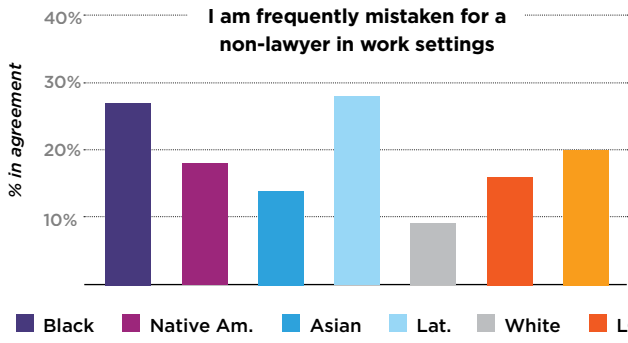
FINDING No. 2

The lack of diversity exacerbates professional barriers and personal issues specific to members from marginalized and underrepresented communities.



DETAILS ABOUT THE SURVEY

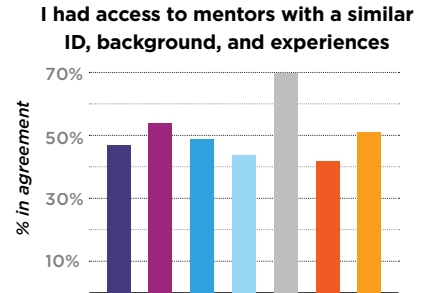
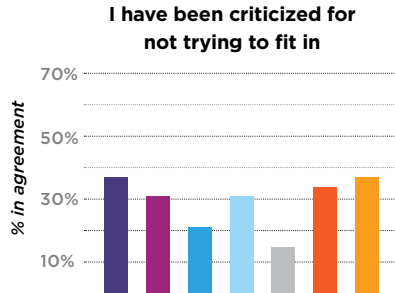
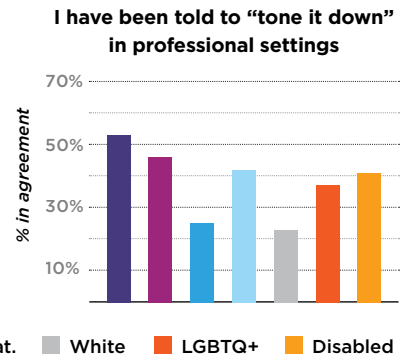
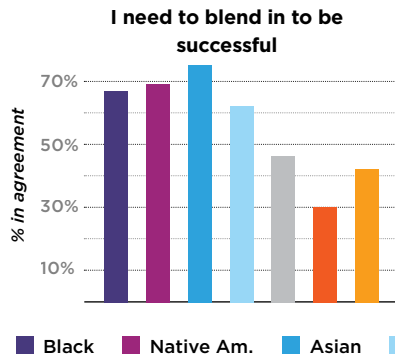
- > Invitations to the **web-based study** were sent to nearly 40,000 WSBA members in 2023.
- > Of that initial group, **1,857 members** completed the survey (97% Lawyers, 1% LLLT, 2% LPO).
- > The results showed solid distribution across **Sectors, Firm Size, and Practice Areas.**
- > There were **7 focus groups** of members from underrepresented groups based on the survey data.



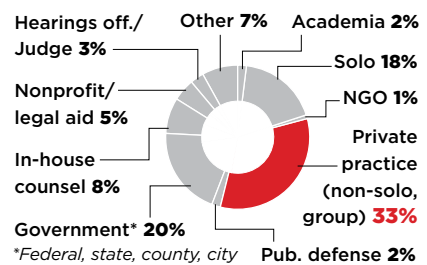
DO I BELONG?
“Standing out” can lead members to question whether they belong.

FITTING IN & SYSTEMIC BIAS

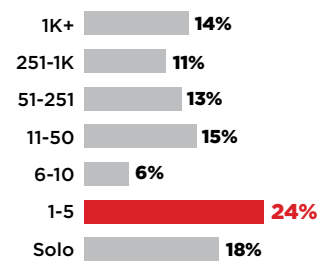
Non-dominant groups were more likely to report being asked to “tone it down” in an office setting. This suggests that “fitting in” is communicated more systemically—that standing out by virtue of identity or disability engenders greater scrutiny and places more constraints on the member’s behavior.



LEGAL SECTOR WORKED IN



SIZE OF ORGANIZATION



2024 WSBA Membership Demographic Study

CONTINUED >

includes how we are implementing the plan and strategies members can consider to advance equity and justice.

Q. How was the study conducted?

The study was conducted by KGR+C (aka Kno-Why), an independent research consulting firm that did a similar study for the Oregon State Bar in 2019.¹ The consultant conducted a comprehensive, mixed-method (quantitative and qualitative) study of the demographic composition of WSBA membership and experiences in the workplace and profession. The study began with a membership-wide survey (sent to almost 40,000 WSBA members) that included questions focused on identity-based demographics such as age, race and ethnicity, gender, sexual orientation, and disability, as well as years of practice, practice area, setting and size, workplace satisfaction and loyalty, perception of current work environment and experiences of bias, stereotypes, and microaggressions. There were 1,857 completed responses to the survey—97 percent lawyers, 1 percent LLLTs, and 2 percent LPOs. Following the survey, the consultant conducted confidential focus groups of members with identities that were most underrepresented in the survey. The focus groups allowed the consultant to listen and learn from members’ stories, interpretations, and perspectives, which inform the survey data and provide a more complete picture for the study.

Q. Why is it important to measure membership demographics and experiences?

Understanding the composition of Bar members helps us analyze the relationship between the legal profession and the wider public, including tracking disparities in representation. Beyond diversity, it is also important to understand experiences of equity, inclusion, and belonging among Bar membership. A comprehensive membership survey allows the WSBA to understand

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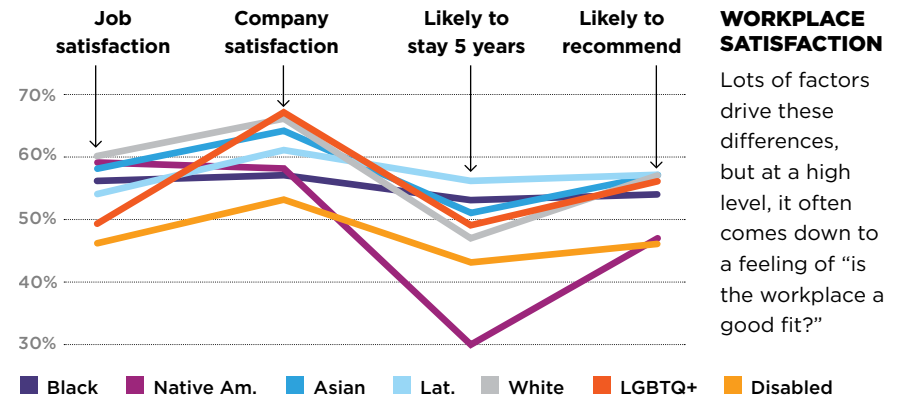
5 KEY FINDINGS

What the survey data says about member experience and retention

FINDING

No. 3

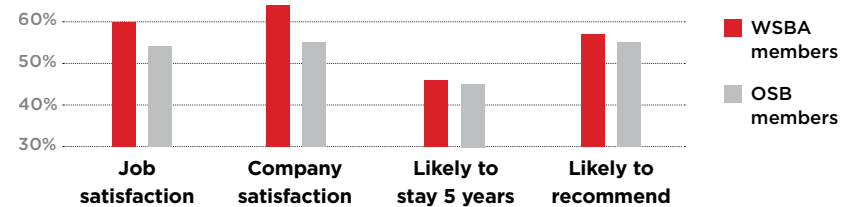
On average, workplace evaluations are fairly positive. However, members from marginalized and underrepresented communities are less likely to report positive, satisfying, or accommodating workplace environments.



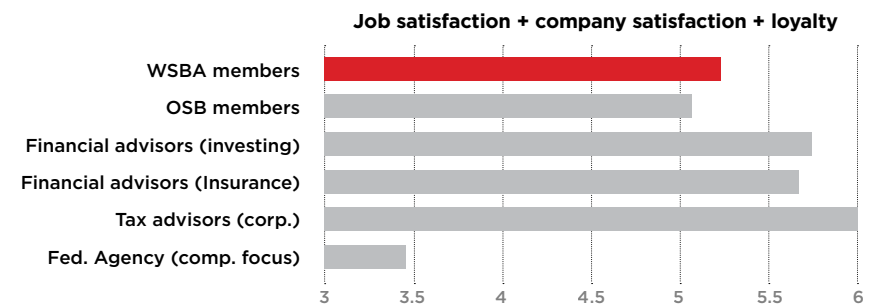
WORKPLACE SATISFACTION
Lots of factors drive these differences, but at a high level, it often comes down to a feeling of “is the workplace a good fit?”

WSBA MEMBER SATISFACTION LEVELS

Workplace evaluations are not bad on average. In fact, they are slightly higher than our neighbors to the south, Oregon State Bar (OSB) members.



WSBA members report lower job/company satisfaction and “loyalty” than many other advice-based professions surveyed.



5 KEY FINDINGS

What the survey data says about member experience and retention

FINDING

No. 4

Nearly all members report a lack of diversity and inclusion in their workplace—but the negative impacts of workplace environments aren't distributed equally.



IN THEIR OWN WORDS

Quotes from focus group participants:

“I’m out and open about it. They know, and mostly ignore it except when [it benefits them]. But their heads would explode if I wore a pair of heels.”

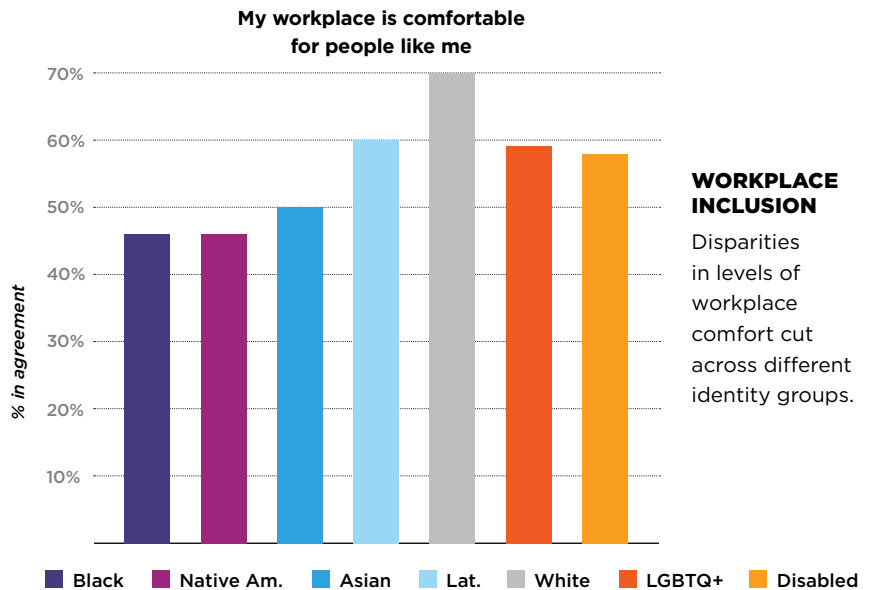
— LGBTQAI2+-identified member

“We give up a lot to stand out less. Names. I don’t use the name I do with my friends or family ... Language. I feel like every time I pronounce a Mexican name or food the right way, I remind people I’m different.”

— Latinx-identified member

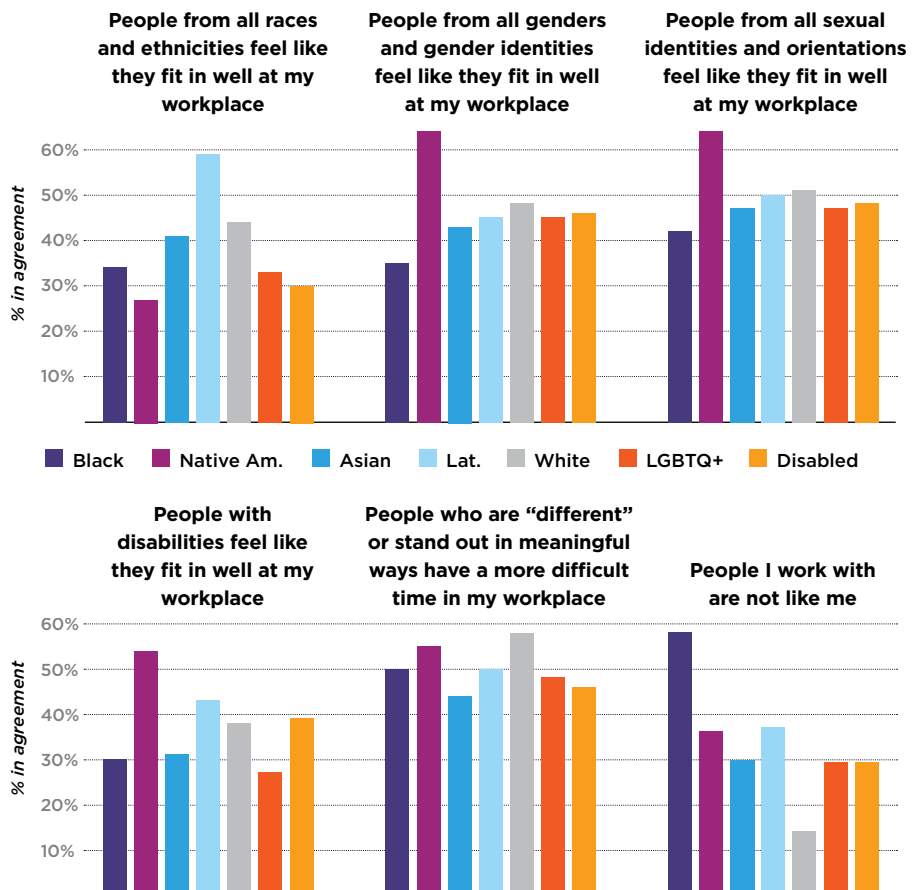
“I’ve had judges say to me they were surprised Black folks could be lawyers. It made me think—am I really that incompetent?”

— Black-identified member



PERCEPTION OF INCLUSION IN THE WORKPLACE

The majority of members recognize that their workplaces have significant inclusion challenges, including by identity categories such as racial groups, gender identity and sexual orientation, and disability. Some groups are impacted more than others and for a variety of reasons including two “fit” indicators—whether the workplace is comfortable (see above) and whether people I work with are not like me (see below).



5 KEY FINDINGS

What the survey data says about member experience and retention

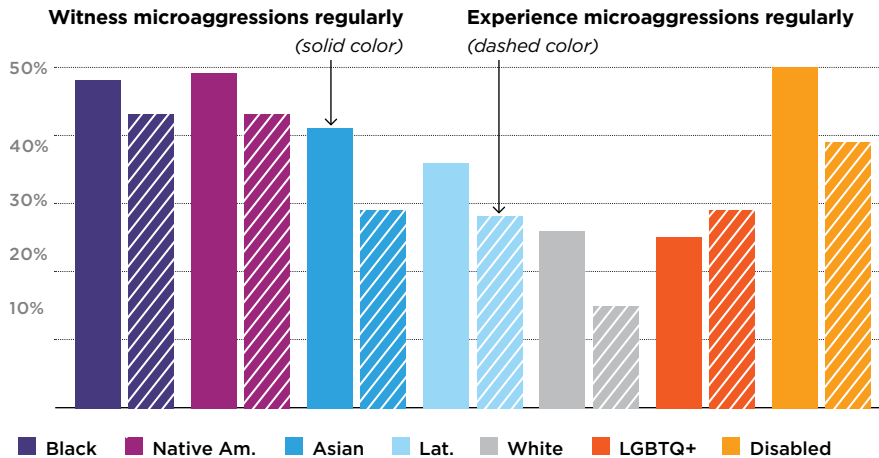
FINDING

No. 5

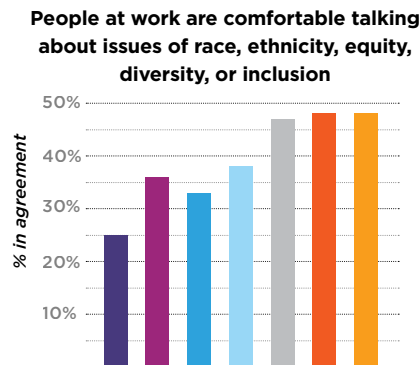
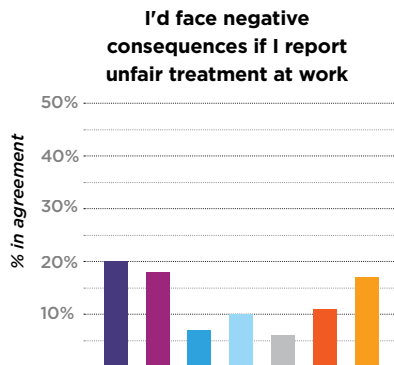
Members of dominant groups are least likely to face negative consequences for reporting injustice, but fail to notice the frequent negative workplace experiences of those from marginalized and underrepresented communities.

EXPERIENCES OF MICROAGGRESSIONS IN THE WORKPLACE

“Regularly” is defined as happening several times per month at a minimum—a frequency at which events are expected and considered “normal.”



More members from underrepresented communities said they'd face negative consequences if they reported unfair treatment. Members of color are less likely to feel comfortable talking about race, ethnicity, equity, diversity, and inclusion in the workplace.



2024 WSBA Membership Demographic Study

CONTINUED >

how members with non-dominant identities experience workplace satisfaction, microaggressions, and sense of fit. Because bias and lack of belonging reflect systemic issues, a large-scale data analysis allows us to understand how widespread they are; how they manifest; and, most importantly, where and how to intervene to promote a more inclusive profession and legal system.

When some people in a group (like the legal profession in Washington, for example) don't feel welcome or adequately supported, everyone in that group is affected. When diversity and inclusion are stifled, legal professionals—especially ones from underrepresented communities—may choose to leave the profession, which results in a reduction in workplace retention. Fewer people in the legal profession may result in higher workloads for those who remain and potentially diminish work quality and increase unmet legal needs. This may result in a reduction of public trust of the legal profession and the legal system and may deter people from joining the profession. A smaller legal profession that does not represent the diversity of the public may overburden our legal system and exacerbate systemic problems. Therefore, it is important to understand our makeup and the experiences of our members so we can disrupt this cycle and create a thriving profession that is accessible and where everyone feels they belong.

Q. What will the WSBA do with the results of the study?

To start, the WSBA's Diversity, Equity and Inclusion (DEI) Council has drafted a new strategic Equity and Justice Plan that will replace the 2013 Diversity and Inclusion Plan. This new plan has been informed by the study. The DEI Council will present a first draft of the new plan to the Board of Governors in January 2025. The WSBA is also working on making the aggregated data from the study accessible so that others can use the data to inform how they foster a more diverse, inclusive, and equitable legal profession.

HOW YOU
CAN GET
INVOLVED

Your Feedback is Needed: New Equity & Justice Plan

The 2024 demographic study is the foundation for a new Equity and Justice Plan, a roadmap for the next five years that will help the WSBA strengthen the legal profession to best serve Washingtonians.

The WSBA recognizes the crucial role that diversity, equity, and inclusion play in advancing justice in both our legal profession and our legal system. We believe that a legal profession that reflects the rich diversity of the communities we serve and that fosters inclusion and belonging among its members will improve public trust and confidence in the profession. The draft Equity and Justice Plan is rooted in the demographics and experiences of our members, and it focuses on three main goals, each with action steps:

1

Strengthen the legal profession by fostering belonging and building community.

2

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and Justice Plan. To read the draft Equity and Justice Plan, provide feedback, and learn more about the demographic study (including earning CLE credit), visit www.wsba.org/equity-and-justice-plan. 

NOTE

1. Oregon Legal Community Climate Assessment Summary Report, www.osbar.org/_docs/resources/ClimateSurvey/2019ClimateSurvey_Final.pdf.

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AMENDMENTS TO CR 26 AND 30 WILL CHANGE DISCOVERY AND DEPOSITION PRACTICE

BY DAN BRIDGES

On Sept. 5, 2024, the Washington Supreme Court entered an order adopting revised proposed amendments to Civil Rule (CR) 26—General Provisions Governing Discovery—and further ordered that “pursuant to the emergency provisions of GR 9(j)(1), the revised proposed amendments will be expeditiously published in the Washington Reports and will become effective upon publication.”¹ The amendments to CR 26 affect objections, supplementation, and disclosure of experts. They will require a material change in the way many attorneys practice discovery.

Amendments to CR 30 adopted effective Oct. 1, 2024, codify procedure for depositions by remote means.

This article will explain the changes effected by the rule amendments and, with respect to CR 26, provide context considered by the Civil Litigation Rules Revision Work Group in drafting the proposed amendments to illustrate their impact.

HISTORY

Following task forces and work groups going back to 2011, in 2019 the WSBA Board of Governors created the Civil Litigation Rules Revision Work Group (Work Group), which the author was privileged to chair.² We assembled a group of litigation stakeholders, considered work of past groups, and proposed a small number of laser-fo-

cused amendments based on a pragmatic approach: What are a few recurring problems and how can they be fixed? In 2020 the Board approved our proposed amendments, forwarding them to the Washington Supreme Court for consideration. The revised proposed amendments to CR 26 as adopted by the court are summarized first, followed by discussion of the amendments to CR 30.

EXPERT WITNESS DISCLOSURE

It was the Work Group’s impression that many litigants tactically withhold discovery of testifying expert witnesses on the ground that no disclosure is required until a case schedule deadline. The amendments to CR 26(b)(5)(A)(i) and (ii) prohibit that practice and make clear what must be disclosed where a case schedule is used:

(5) *Trial Preparation: Experts.*

(A)(i) A party may through interrogatories require any other party to identify each person whom the other party expects to call as an expert witness at trial, to state the subject matter on which the expert is expected to testify, to state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion, and to state such other information about the expert as may be discoverable under these rules. Except for special proceedings, a case schedule deadline to disclose experts does not excuse a party from timely responding to expert discovery to the extent responsive information is available. (ii) Unless these rules impose an earlier deadline, and in no event later than the deadline for primary or rebuttal expert witness disclosures imposed by a case schedule or court order, each party shall identify each person whom that party expects to call as a primary or rebuttal expert witness at trial, state the subject matter on which the expert is expected to testify, state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

The amendments to CR 26 affect objections, supplementation, and disclosure of experts. They will require a material change in the way many attorneys practice discovery.

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Amendments to CR 26 and 30 Will Change Discovery and Deposition Practice

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SUPPLEMENTATION OF RESPONSES

Civil Rule 26(e) only required supplementation in limited circumstances. CR 26(e), as amended, now imposes a self-executing duty to supplement and/or correct all discovery responses.

(e) Supplementation of Responses. A party who has responded to a request for discovery with a response has a duty to seasonably supplement or correct that response with information thereafter acquired. Supplementation or correction shall clearly set forth the information being supplemented or corrected. that was complete when made is under no duty to supplement the response to include information thereafter acquired, except as follows:

(1) A party is under a duty seasonably to supplement their response with respect to any question directly addressed to:
(A) the identity and location of persons having knowledge of discoverable matters, and

(B) the identity of each person expected to be called as an expert witness at trial, the subject matter on which the expert witness is expected to testify, and the substance of the expert witness's testimony.

(2) A party is under a duty seasonably to amend a prior response if the party obtains information upon the basis of which:

(A) the party knows that the response was incorrect when made, or

(B) the party knows that the response though correct when made is no longer true and the circumstances are such that a failure to amend the response is in substance a knowing concealment.

(3) A duty to supplement responses may be imposed by order of the court, agreement of the parties, or at any time prior to trial through new requests for supplementation of prior responses.

(4) Failure to seasonably supplement or correct in accordance with this rule will subject the party to such terms and conditions as the trial court may deem appropriate.

The new language that “[s]upplementation or correction shall clearly set forth the information being supplemented or corrected” represents two material changes.

First, previously the rule only required supplementation in a few circumstances or if expressly requested. Now there is an ongoing, self-executing duty to do so. A party must “seasonably supplement” with information “thereafter acquired.” CR 26(e). In response to the objection this might increase costs and introduce ambiguity, the Work Group determined most parties already ask for supplementation, so there is no net increase in work. As to ambiguity, although what constitutes “seasonably” is undefined, many rules are governed by reasonableness. This is no different.



Dan Bridges of McGaughey Bridges Dunlap has a complex litigation practice representing injured persons. He has tried over 50 jury trials in state and U.S. District Court and has argued in the Washington Supreme Court, every Division of the Court of Appeals, and the Ninth Circuit Court of Appeals. He is a past treasurer of the Washington State Bar Association and was a governor on its Board of Governors.

If a party has nothing to identify in a privilege log there is no basis to assert the objection in the first place.

Second, on the form of the supplementation, it was the Work Group’s impression some litigants make supplementation a “needle-in-a-haystack” game, embedding (hiding) new information within their unchanged responses. Nothing is served by placing supplementary responses within unchanged responses unless it is to conceal or make the new information less obvious. The amended rule requires that the supplemented or corrected responses “shall clearly set forth the information being supplemented or corrected” so the reader can readily identify it for what it is. The best practice is to supplement or correct responses with *only* the supplemental or corrected information.

OBJECTIONS/PRIVILEGE LOG

General objections are now *expressly* prohibited under the amendment to CR 26(g). A privilege log is required for *every* assertion of privilege.

(g) Signing of Discovery Requests, Responses, and Objections.

Every request for discovery or response or objection thereto made by a party represented party by an attorney shall be signed by at least one attorney of record in the attorney’s individual name. whose address shall be stated. A party who is not represented by an attorney shall sign the request, response, or objection by a nonrepresented party shall be signed by that party, and state the party’s address. Objections shall be in response to the specific request objected to. General objections shall not be made. A party making an objection based on privilege shall describe the grounds for the objection and, where consistent with subsection (b)(1), shall identify all matters the objecting party contends are subject to the privilege including sufficient information to allow other parties to evaluate the claim of privilege without disclosing protected content. The signature of the attorney or party constitutes a certification that the attorney or the party has read the request, response, or objection, and that to the best of their knowledge, information, and belief formed after a reasonable inquiry it is:[remainder of rule unchanged]

Every objection must be individually stated in response to each request. That was always the rule if CR 33 (interrogatories) and CR 34 (requests for production) were read. Despite that, the Work Group found that some parties persisted in using general objections, claiming they were permissible because no rule expressly prohibited them. That was erroneous and the amended rule makes that clear.

The amended rule now also expressly requires that every assertion of privilege “shall describe the grounds for the objection” and “shall identify all matters the objecting party contends are subject to the privilege including sufficient information to allow other parties to evaluate the claim of privilege without disclosing protected content.” In other words: a privilege log. That was already required³ but, as with general objections, many claimed it was not because no rule expressly required it. That was erroneous and the amended rule makes that clear.

There is a critical interplay between prohibiting general objections and requiring a privilege log. It was the Work Group’s strong impression that repetitive, boilerplate, and privilege objections to discovery had spiraled out of control, wasting untold time in responding to them. They are a tool of obstruction forcing the responding party to engage in a cat-and-mouse exercise to sleuth out whether anything is actually being withheld before being able to determine if the objection is proper—needlessly increasing costs and blocking full discovery.

These amendments to the rule flip that script.

Putting these changes together, *either* a party has a privileged or protected item and shall make an objection to the *specific* question asking for it and provide a privilege log identifying it, *or they cannot and should not make the objection in the first place*. It cannot be both: because now every privilege objection must include a description of what is being withheld via a privilege log, if a party has nothing to identify in a log there is no basis to assert the objection in the first place.

It was the Work Group’s impression that many litigants have a fundamental

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- Estate of Hunter (\$2.8 million fee award in arbitration) (2019)
- Easterly v. Clark County, 2 Wn. App. 2d 1066 (2018)
- Arnold v. City of Seattle, 185 Wn.2d 510, 374 P.3d 111 (2016)
- Bright v. Frank Russell Investments, 191 Wn. App. 73, 361 P.3d 245 (2015)

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2024 WL 1856692 (2024) (reversing trial court coverage, extracontractual award against insurer)

Gordon v. Robinhood Financial, LLC,

547 P.3d 945 (2024)
(reversing excessive fee sanction award)

Selim v. Fivos, Inc.,

2024 WL 3423716 (2024) (concluding that Washington, not Egyptian, law applied in employment case)

Scott v. City of Tacoma,

28 Wn. App. 2d 1050, 2023 WL 7327746 (2023),
(summary judgment for city on attenuated causation grounds reversed)

Ebbeler v. WFG National Title Co.,

29 Wn. App. 2d 1049, 2024 WL 692684 (2024)
(reversing dismissal of contract and negligence claims against escrow agent)

EHouse Dev., LLC v. Lam,

27 Wn. App. 2d 1055, 2023 WL 5202420 (2023)
(affirming seller’s retention of non-refundable payment in real estate sale)

Nay v. BNSF Ry. Co.,

2023 WL 5740244 (2023) (reversing dismissal on federal preemption grounds of rail crossing claims)

Jones Estate v. State of Wash.,

2 Wn.3d 93, 534 P.3d 822 (2023) (reversing dismissal of childhood sexual abuse claims against State on statute of limitations grounds)

Aguda v. Aguda,

25 Wn. App. 2d 1069, 2023 WL 2570709 (2023)
(successfully dismissing appeal as untimely)

Schireman v. Williams,

26 Wn. App. 2d 1003, 2023 WL 2645875 (2023)
(reversed trial court’s submission of case-within-case causation to jury in legal malpractice action)

Dr. Conklin v. Univ. of Washington School of Medicine,

1 Wn.3d 1011, 528 P.3d 362 (2023) (reversing and holding University of WA liable for PRA violations)

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Amendments to CR 26 and 30 Will Change Discovery and Deposition Practice

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misunderstanding of how to use privilege objections. Some believe they must make a privilege objection *even when nothing privileged exists*, lest a later objection is waived on the chance that *in the future* something privileged comes into existence. No case or civil rule requires that.

To illustrate the proper use of a privilege objection, a request for witness statements *might* call for work product. But if a party does not have any, the correct response is to say they have none. That does not waive an objection if a witness statement *later* comes into being. That later circumstance would simply require a seasonable supplement under CR 26(e) and *then* an objection coupled with a privilege log.

DEPOSITIONS BY REMOTE MEANS

Amendments to CR 30, addressing depositions by remote means, were proposed by the BJA Remote Proceedings Work Group and adopted effective Oct. 1, 2024.⁴ The amended rule allows a party to unilaterally issue a notice of remote deposition and identifies criteria for a trial court to consider in deciding to require one if it is opposed. See CR 30(b)(7). The rule provides an unprecedented short period to object, requiring filing a “motion” to object “within three days of receipt of notice[.]”⁵

If a deposition is taken by remote means, the amended rule specifies who may be in the room with the deponent and requires that each person “in the room with the deponent ... shall remain audible and visible for the duration of the deposition.” CR 30(h)(7)(B). The amended rule requires that “[n]o one shall attempt to influence the deponent’s response to an examiner’s question in any manner, including visually, verbally, and in writing, such as notes, text message, e-mail, and electronic chat functions.” CR 30(h)(7)(D).

Amended Rule 30 does not address exhibits. Exhibits at remote depositions have been persistently problematic with many parties not providing them during depo-

sition, showing all manner of items on screens, and wanting to send “exhibits” to the reporter later. That violates basic reporting requirements: The reporter is unable to concurrently mark and therefore *personally* certify that what accompanies the transcript was in fact what was used in the deposition. The author has seen items sent after a remote deposition as exhibits that were *not* what was used. This may have been an innocent mistake but the effect is the same. Although the rule is silent, parties should adhere to the longstanding requirement that the reporter must have and mark exhibits *during* the deposition. That is not a burden; all commonly used platforms allow exhibits to be uploaded on the fly during the deposition.

It is worth observing the court’s adoption of an amendment to CR 30 codifying requirements for when and how remote depositions may be noted *sub silentio* vacates its emergency order that depositions “shall be performed remotely.” Codifying a permanent rule obviates the court’s emergency, temporary rule. Further, the language of the emergency order and the amended CR 30 cannot exist in the same space.

THE NEXT FRONTIER: LOCAL RULE CONSISTENCY?

The Work Group proposed additional amendments aimed at continuity on a few common, statewide practice issues. Local flexibility should be retained but, as just one example, there is no compelling reason for there to be differing nine-day, seven-day, and six-day notice requirements for a basic motion depending on whether it is filed in King, Pierce, or Snohomish County. Local rules have become such a patchwork that many of the differences serve little purpose other than to pose traps for the unwary. We could achieve meaningful efficiency by returning to some degree of consistency on common procedural issues. Given the current rule structure, it will require the Supreme Court through rule-making to unify those issues.

Practitioners should be grateful for the clarity provided by the amendments to CR 26 and CR 30 adopted by the court, but many additional opportunities for increasing efficiencies in our discovery rules remain—and more can be done. [BN](#)

NOTES

1. Order No. 25700-A-1592, In re Proposed Amendments to CR 26, 2024 Wash. LEXIS 449 (Wash. Sup. Ct. Sept. 5, 2024), available at www.courts.wa.gov/courtrules/rulesrelatedCourtOrder.cfm.
2. Special thanks must be given to Ken Masters who chaired a different, previous drafting task force. Not all work makes it to the final product, but no work is wasted. Ken’s task force’s drafts informed the Board in creating my Work Group and were needed steps to this final product.
3. Rental Housing Ass’n of Puget Sound v. City of Des Moines, 165 Wn.2d 525, 538, 199 P.3d 393 (2009).
4. See Order No. 25700-A-1602, In re Proposed Amendments to CR 30, 2024 Wash. LEXIS 447 (Wash. Sup. Ct. Sept. 5, 2024), available at <https://www.courts.wa.gov/courtrules/rulesrelatedCourtOrder.cfm>.
5. In the author’s opinion, providing the ability to unilaterally force an internet deposition and requiring a motion be filed in only three days to oppose it is inconsistent with notice and timing embodied in the Civil Rules, conflicts with CR 26(i) requiring a conference of counsel before moving for relief on discovery, and is such a departure from procedural norms as to express an overt hostility to in-person (real) depositions. We should adopt efficiencies in technology but we jeopardize the truth-finding process provided by the human interaction that litigation requires by walling the witness behind the shield of a safety-blanket video screen. A practical, neutral rule would be to permit, unilaterally, remote appearances at live (real) depositions by attorneys if they wish and if they arrange the technology for it. And as to witnesses, to allow remote appearance by agreement and provide a framework to move to compel that if there is a compelling need. Further, as a rule it has unintended and bad outcomes. Noted above, it is silent on the proper taking of exhibits which undermines the reliability of the transcript. Further, a three-day motion requirement will encourage canned, rushed motions which are to no one’s benefit and are contrary to the findings of litigation-cost-reduction task forces that universally tried to avoid anything creating more motion practice. Additionally, it can work a very real prejudice to parties in multiparty litigation by allowing one party to disadvantage another by racing to note a remote deposition first when an in-person one is needed or even a party noting their own deposition to try to force it remotely. Remote appearances have a limited place but are no substitute for an in-person deposition on contentious issues or where lengthy, or many, exhibits are involved. Finally, the rule is King County-centric in its assumption every witness has sufficient technology to comply and says nothing about who bears the burden of providing it. CR 45 compels physical attendance. It does not compel a high-speed internet connection, computer, and web camera.



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Alvidrez, Luis
Amendola, Alejandra Victoria
Anderson, Katherine Marie
Anderson, Sophia Elizabeth
Andrade-Cornelio, Manuel Salvador
Anney, Thomas Kirk
Apana, Gabrielle Kanoelani
Aranda, Elias Javier
Arganian, Tamar Arleen
Au, Kathy
Aubrey, Averill Lee
Azarkh, Katherine
Azizirad, Kian

B

Baginski, Olivia Melissa
Banaszynski, Emily Ann
Banchemo, Michaela Antonia
Bankesly, Rama
Kline Bartels, Nicholas
Jonathan Scott
Barton, Hayley Mynnette
Bass, Jennifer Catherine Louise
Bassler, Daniel J.
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Cuene, Cooper James
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Dalmy, Ashley Jean Antal
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Imler, Gregory Michael M.
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Kilgore III, Charles Robert
Kim, Chisup
Kim, Justine Doh-yeon
Kinard, Allison Alexandria
Kitmacher, Gabriella Rose
Klein, Matthew Todd
Klonsinski, Abigail Mae
Korthuis, Grace
Kovis, Robin Lloyd
Kuehn, Matthew Lawrence
Kuske, Evyn Grace

L
Lamas, Sanea C.
Lantz, Sophie Audrey
Larson, Taylor Norton
Leban, Rosalyn Dietrich
Lee, Chelsea
Lee, Esther Jihyun
Lee, Miles Kiyoshi
LeGresley, Megan
Leifur-Masterson, Kaitlin
Lester, Benjamin Levy
Li, Erica
Li, Qing
Liao, Z-Ting Jeff
Lin, Angelina Danya
Linnenkamp, Jennifer Rose
Liu, Angela
Liu, Ze
Lively, Mark
Llanos, Mariana Toaldo
Lloid, Anna Grace
Loh, Gina Yee-Mei
Loos, Katherine Anne
Lopez, Alexandro Francis
Lorey, Maya Rae
Lu, Kendrick Yu
Luebbers, Samuel Gerard
Lundin, Zachary Grant
Lutsock, Amanda R.
Lyons, Clare Theodora Truitt

M
Mackey-Moseley, Prentice James
MacLean, Benjamin Walker
Maddio, Jerrod Vincent
Maggiacomo, Genell
Mahbub, Mohammad Murnnam Hussain
Mahre, Ryland James
Mailander, Evelyn Grace
Mancisidor, Sasha Julia
Mand, Carmen
Mandelis, Cameron Alexander
Manning, Sydney Amelinda
Marcus, Charley Jameson
Marino, Lincoln Taylor
Marquez, Gabrielle Scout
Marsh, Victoria Bekins
Martin, Courtney Lynn
Matz-Carter, Gabryelle
McCulley, Peyton Nicole
McDonell, Charles Lawrence
McElhaney, Nicole Marie
McKusick, Walker Roy
McLeod, Kelton James
McMillan, Alexis
McNichol, Michaela Marie
McNiel, Kayleigh Nikia
Menard, Avey Willcutt
Menso, Simon
Mester, Anna Marie Mirano
Meyer, Bailey
Meyers, Reed Thomas
Michener, Kristina

Miller, Madeline G.
Milne, Allison
Min, Elliot Kyoung
Mischel, Kenneth Donald
Mishra, Ankita
Mittan, Robert
Mo, Alysya KimYong
Molineux, Evan
Mondragon, Gisell
Montgomery, Jacob Dillan
Morales, Meralina E.
Moretz, Derek Joseph
Mott, Olivia Marie
Mowreader, Tara Lea
Mudgal, Nidhi
Mulkey, Alexis Rae
Mullen, Kate Rolle
Muller, Aiken
Murphy, Kennedy Julianne
Murray, Meagan Elizabeth
Musicant, Alexander Ward
Mynatt, Nathan David

N
Nader, Jacquelyn Reed
Nadler, Adina Chava Blumele
Negash, Hosanna
Nollan, Anna
Novello, Nicholas
Null, Nicholas Alexander

O
O'Hagan, John Michael
Okoli, Chibueze Timothy
Olson, Eric Henry
Orehek, Michael Conor
Orr, Wilson G.
Ortega, Steven Dailey
Ortiz-Camacho, Mareval Mylan
Ota, Ashlynn Mckenzie Kinuyo
Ottem, Cheyenne Rae
Ozburn, Caitlyn Karennia

P
Paganelli, Charles Vincent
Pakosz, Gracie Dawn
Pakzad, Elham Elise
Palmer, Kylie Katsuko
Pink Pampena, Brenna Marie
Pantoja-Ortega, Zulen Anay
Park, Soyun
Parsons, Daniel Jacob
Pasnack, Marisa
Passas, Elias
Patterson, James
Pearson, Laura Anne
Peeples, Kali Juliana
Pena, Bernadette Michelle Guevarra
Pendergast, Jake Edward
Penrod, Kathryn Arlene

Pereira, Tiana Alohilani Keikialoha
Pereiro, Carigan
Perez Cantalapiedra, Tamara Alejandra
Peters, Schuyler Marie
Peterson, Ashley Kaylyn
Peterson, Gunnar Stone
Peterson, Mariah Elaine
Petricone, Cecilia Alice
Pfister, Luke
Phillippi, Joseph Evan
Phillips, Julie Elizabeth
Phung-Marion, Ciera
Pierce, Marlene
Piou, Hansenard Daniel
Pleasant, Madison Ann
Pop, Octavian Cristian
Powell, Joshua Vinson
Pritikin, Nicole Rene
Puranik, Shama

Q
Qu, Yufei
Quintana, Raul Prakash

R
Rasool, Haneen
Reid, Allison Victoria
Renfro, Katelyn cecelia
Rettig, Patrick Joseph
Reyes Romero, Vanessa
Ricaforte, Emilio O. T. Kolve
Richardson, Kendrick Todd
Richey, Jordyn Elaine
Ritchie, Steven Ledale
Rizzo, Kathryn Anne
Robertson, Katherine Amelia Jean
Robinson, Hunter Ryan
Robinson, Madeline Monique
Roeth, Jack Millard
Roettgering, Sandra Marie
Ross, Andrew James
Rot, Ashley
Rothenberg, Jared Scott
Rothenberg, Naomi
Roup, Marcus Alexander
Rozman, Morgan
Ruppel, Matthew James
Russell, Jean

S
Sabbatani, Lauren Elizabeth
Saddler, Alisha Danielle
Salguero, Jasmine Elizabeth
Saling, Matthew James
Sanders, Eli Jacob
Sandoval, Marija Vladimirovna
Sands, Eliot Pearce
Sanusi, Aminat Oluwafemi
Sargent, Nathan James
Saroyan, Viktorya

Saunders, Ryan Douglas
Scanlon, Jennifer Marie
Scaramuzza, Lucy Teresa Marcella
Schiller, Katelyn Brooke
Schultz, Davis
Schumacher, Rebecca Bea
Schwartz, Emily
Seeley, Anne Elizabeth
Sehorn, Jaxi Rae
Seibold, Emily Lucille
Selby, Heather
Sellars, Kathleen Erin
Shah, Shreya
Shahbazi, Donna Sabrkon
Shin, Joseph Hyobeum
Shumar, Anna Marie
Sim, Ann
Simmons, Emmett
Simmons, Jacob Eric
Sines, Gabrielle Victoria
Singh, Keerut
Singh, Mun Alison
Smith, Lauren Ryunosuke
Smith, Libby
Smith, Sarah Elizabeth
Smith, Stephanie Blackner
Snapp, Linnea Ruth Vargas
Snodgrass, Kathryn Marie
Sodon, Clara
Sproul, Conrad
Stafford, James Ryan
Stanton, Jack Miller
Stapleton, Jordan Thomas
Stein, Andrew Davis
Stensgaard, Jared Tom
Stenstrom, Brooklyn Adaire
Stephens, Ashley Jean
Stites, Brandt
Stockslager, Katlyn Elisabeth
Stockwell, Stefanie Jean
Stowell, Ashton Ryan
Stubblefield, Daniel Robert
Sugarman, Maxine Corin
Sun, Sophia
Sussman, Franklin Jacob Thompson
Swamy, Sai Spoorthi
Sweeney, Ariella Brianna
Sztrancman, Mitchel

T
Tarbell, Elizabeth Weatherbee
Teague, Nicole
Tedder, Eric Michael
Tefaye, Bezawit
Thompson, Alexander James
Thomsen, Natalie Joan
Thrun, Lucas August
Thuet, Talia Ocean
Thunselle, Margaret Holland
Tillinger, Brian Israel
Tingstad, Andrew Joseph

Trapp, Connor B.
Troutman, Elizabeth Mary
Troy, Jared Charles
Turnipseed, Thomas Keaton

U
Ubilava, Valeria
Unterseher, Laura Rogers

V
Valade, Nicholas
Van Heel, Veronica
Vasquez-Leon, Jailine Fernanda
Velkovsky, Pavel Nicola
Santiago Villa, Alejandra
Villasenor, Miguel
Vo, Emily Lynne

W
Walker, Sally Louise
Walkush, Malina Suzanne
Wallace, Evelyn Grace
Walls, Zachary Michael
Wanser Jr., Keith Allen
Washburn, Faye Elwell
Weber, Anna Katherine
Weber, Taylor
Weinreb, Daniel
Weise, Sarah Ruth
Weston, Brodie Lee
Wheeler, Lauren Mae
Whitcomb, Owen Robert
White, Joseph Aidan
White, Roberto Duarte
Whittemore, John
Wickstrom, Jordyn Leigh
Wilkins-Luton III, Thomas James
Willard, Frazier McKay
Wilson, Megan Elizabeth
Woldu, Abiel
Wood, Sarah Ellen
Woodard-Kelley, Rachel E.
Woodruff, Allison Nichole
Woods, Jackson Stauffer
Wu, Ying-Hsuan

X
Xu, Alice Yanyang

Y
Yelle, Sarah
Yousfi, Nabil M.

Z
Zacharia, Gregory
Zamora, Brianne Tolentino
Zangerle, Grace Anne Morris
Zangl, Michael Patrick
Zavala, Sabreena Nicole
Zuniga, Diandra Lynn

BN

In Remembrance

This In Remembrance section lists WSBA members by Bar number and date of death. The list is not complete and contains only those notices of which the WSBA has learned through correspondence from members. Please email notices to wabarnews@wsba.org.

WSBA PRESIDENT 1973-1974

Clery Cone

#103, 3/25/2018

[The WSBA learned of Clery Cone's death in September 2024.]

Clery Cone was born Dec. 4, 1926, and died on March 25, 2018, at the age of 91. Cone was selected for the Army Specialized Training Reserve Program at Washington State University and served during WWII. Cone also played baseball for the Bellingham Bells and other semiprofessional teams; he was awarded the Washington Semi-Pro Outstanding Player award in 1947. He pitched several perfect games, and once struck out 36 batters over two games in a single weekend. After declining an invitation to train with the New York Yankees and a principal appointment to West Point, Cone attended the University of Washington School of Law. Upon graduation, Cone joined a law firm in Ellensburg, where he practiced for 40 years. Cone served as WSBA president from 1973-1974 and in 1981 received the WSBA's Award of Merit (now the Chief Justice Mary E. Fairhurst Award of Merit). He was also named a life member and fellow of the American Bar Association (ABA), a member of the House of Delegates to the ABA, a "Distinguished Alumnus" of the University of Washington School of Law, and a lifetime honorary member of the Rotary Club of Bellingham. Cone was known for having a legendary sense of humor and for never being at a loss for words. He was survived by "the love of his life" and wife of 70 years, Aleen, who died in 2023; his daughters, Cindy and Alison; his grandson, Justin; and his great grandchildren, Russell and Jordan.



Bruce Johnson

#7667, 8/20/2024

Bruce Johnson was born in Columbus, Ohio, and grew up in Shaker Heights. He earned an undergraduate degree from Harvard, a master's degree from Cambridge, and a law degree from Yale. Johnson spent almost 50 years, his entire legal career, with Davis Wright Tremaine. There, he established a media law practice, became an authority on the First Amendment and specifically commercial speech, helped develop anti-SLAPP laws, and generally served as a protector of journalists' rights in Washington. He represented local media outlets, including *The Seattle Times*, which called him "one of the country's preeminent First Amendment lawyers," a sentiment echoed by many of his colleagues. Johnson was also one of the primary voices behind Washington's "shield law," which passed the Legislature in 2007 and now protects reporters in the state from being compelled to disclose confidential sources. Outside of work, Johnson loved baseball, music, theater, and the opera. He served as a board member for the Seattle Opera and Pacific Musicworks. He is described as brilliant and modest, as a devoted father, and as perpetually kind to everyone. He mentored many younger lawyers, including some who lead Davis Wright Tremaine's media law practice today. Johnson died in August 2024 shortly after being diagnosed with ALS. He is survived by his three children, Marta, Winslow, and Russell; his wife, Sandra Davis; his two stepchildren, Lindsey and Brooke; and his grandchildren.

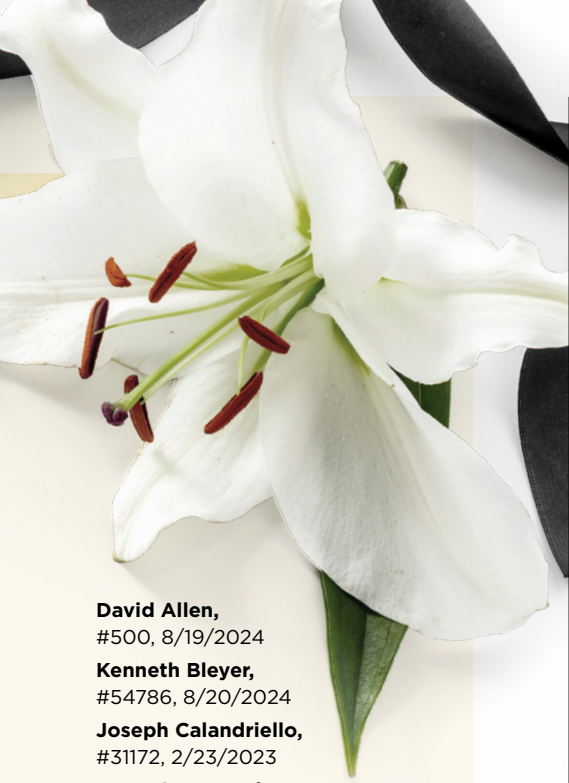


Joel Paget

#2575, 9/27/24

Joel Paget earned his B.A. from Seattle Pacific University and his J.D. from the University of Washington School of Law. After graduation, he clerked for a year on the Washington Court of Appeals. Then in 1971, he joined the law firm of Ryan Swanson (formerly known as Ryan, Carlson, Bush, Swanson & Hendel). Paget stayed with the firm for his entire career. In 1982, Paget helped the firm launch its immigration practice group, which he chaired for many years. His legal practice included assisting immigrants in obtaining employment visas, permanent residence, citizenship, and naturalization in the U.S., and he was often quoted as saying that he helped "the best and brightest come into the United States to live and work." He represented international businesses like BC Tel, as well as individuals and families. Paget also served as Ryan Swanson's managing director from 1993 to 1996. Paget was deeply engaged in volunteer work; he was involved with the Vietnamese American Bar Association of Washington, Seattle Rotary, King County Bar Association, the Japan-America Society of the State of Washington, and the Canada-America Society of Washington. He was a founding member of the Washington chapter of the American Immigration Lawyers Association. Paget was known for being a great mentor, both to young attorneys at his firm and law students and attorneys outside his firm. Paget is survived by many friends and family members, including his second wife, Helen; and his four children, Dene', Jeremy, Justice, and Liberty. **BN**





David Allen,
#500, 8/19/2024

Kenneth Bleyer,
#54786, 8/20/2024

Joseph Calandriello,
#31172, 2/23/2023

Tresa Cavanaugh,
#43146, 9/6/2024

Michael Corry,
#34005, 8/7/2024

Edwin Emerick,
#1795, 10/28/2019

Duane Hirsch,
#4950, 2/25/2024

George Holifield,
#1693, 8/7/2024

Michael Jewitt,
#49196, 7/29/2024

Jared Karstetter,
#17679, 8/19/2024

Robert Keolker,
#1474, 7/13/2024

Albert Lawrence,
#13030, 12/14/2023

Letha Owens,
#15373, 1/14/2024

Bruce Pym,
#2253, 9/29/2024

Duane Taber,
#780, 2/17/2018

Robert Wade,
#33679, 4/14/2021

Robert Windes,
#18216, 6/7/2022

Michael Zanol,
#12443, 9/6/2024

MORE ONLINE >

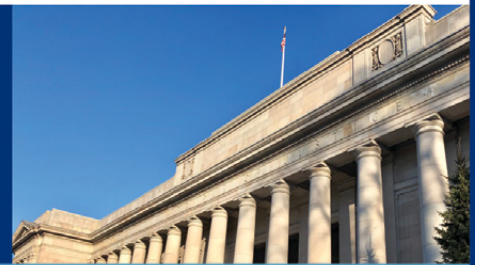
When available, links to obituaries can be found in the online version of this article at wabarnews.org.

APPEALS

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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

NEWS & INFORMATION OF INTEREST TO WSBA MEMBERS

WSBA NEWS 2025 License Renewal and Sections Information

License Renewal is Paperless (online only). Notifications and reminders will be sent by email. Please be sure your email address is current, and emails from the wsba.org domain will not be marked as spam. License renewal must be completed online at <https://licensing.wsba.org>, where you will be able to complete required certifications and securely pay your license fee or print an invoice to mail with a check.

Certify MCLE Compliance. If you are in the 2022-2024 reporting period, 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/MCLE to learn more.

License Fee Payment Plan and Exemptions. If you are experiencing financial challenges, a payment plan option is available. Payments may be made in up to five installments with the balance required to be paid in full by Feb. 3, 2025. License fee exemptions are available for licensed legal professionals who qualify. Visit www.wsba.org/licensing to learn more.

New Option for Member Pronouns. You now have the option of including pronouns on your profile in the WSBA Legal Directory. Please go to <https://mywsba.org/> to include yours! Pronouns are words used to refer to someone in the third person in place of their name. The purpose of including them is to indicate how others can respectfully refer to you.

THE BAR BUZZ

Feedback Needed: New Equity and Justice Plan

The WSBA's DEI Council has drafted a new Equity and Justice Plan as a roadmap to help the WSBA advance equity and justice in our legal profession and legal system. The draft plan is based on the 2024 membership demographic study and a broad spectrum of member input. It focuses on three main goals: strengthening the legal profession by fostering belonging and building community; advancing a fair, inclusive, effective, and accessible legal system for all; and deepening and broadening the WSBA's commitment to equitable decision-making. To learn more and take advantage of several different methods to comment, including an online survey and live, remote feedback sessions, visit www.wsba.org/equity-and-justice-plan.

Voluntary Demographic Information. Please update your information during license renewal at licensing.wsba.org. This information is essential to understanding the demographic makeup of licensed legal professionals in the state and can help inform better policymaking by decision-makers, including the Washington Supreme Court.

Join or Renew Your Section Membership. The Section membership year is Jan. 1-Dec. 31. Visit www.wsba.org/legalcommunity/sections/sections to learn more.

Pro Bono Status. If you are considering going inactive, pro bono status is a great alternative that lets you provide pro bono services through a qualified legal services provider (QLSP). The license fee will be waived for pro bono status members who

completed at least 30 hours of pro bono service with a QLSP in the prior year. Learn more at www.wsba.org/legalcommunity/sections/sections.

Judicial Status. Please note 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.

DEADLINES

Dec. 31, 2024:

- Complete MCLE credits.

Feb. 3, 2025:

- Pay license fee.
- Certify trust account information and liability insurance disclosure or financial responsibility.
- Certify MCLE credits.
- **Optional:** Request license fee exemptions.

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.

Engage With WSBA Leaders

The Member Engagement Council, which seeks member input and involvement in decision-making processes, wants to hear from you! The first agenda item of each meeting (the first Thursday of each month from 1-3 p.m. via Zoom) is reserved for member comments. All topics are welcome. Visit the events calendar at www.wsba.org for more information.

VOLUNTEER UW Law Tax Clinic

The Federal Tax Clinic at the University of Washington School of Law has pro bono

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



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Or visit www.HilyerADR.com for more information and scheduling

Need to Know

CONTINUED >

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.

Peer Advisor Training

Join our network of legal professionals as a peer advisor! Sign up at <https://tinyurl.com/mr2d9sfv> for our free CLE training on Dec. 5. Peer advisors comprise 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. Let's build connections and create a solid support system throughout our legal careers.

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.



Vandenberg
Johnson
Gandara PS

is pleased to announce that

SHARAN K. SEKHON



ssekhon@vjglaw.com

joined the firm as an Associate on July 16, 2024

Vandenberg Johnson Gandara PS
1201 Pacific Ave, Suite 1900
Tacoma, WA 98402
Tel: 253-383-3791 / Fax: 253-383-6377
www.vjglaw.com

LAWYER ANNOUNCEMENT



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,



DISCOUNTS AVAILABLE

Software & 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. We offer discounts on conflict-checking, credit-card processing, encryption, cybersecurity, document editing, document management, e-discovery, marketing and website support, office supplies, practice management software, remote receptionists, and retirement planning. Learn more and access your discounts today at www.wsba.org/for-legal-professionals/member-support/practice-management-discount-network.



[SCAN TO LEARN MORE >](#)

general banking, reconciliation, and more. Find the FAQs at www.wsba.org/for-legal-professionals/member-support/practice-management-assistance/iolta-faqs.

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.

Virtual Career Guidance Group

This free group meets on the first Thursday of the month at 3 p.m. This is a chance to receive guidance on your résumé, informational interviewing, applying for positions, and where you see yourself in your legal career. This group is led by Dan Crystal, Psy.D. Sign up at www.wsba.org/for-legal-professionals/member-support/wellness/group-sessions.

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.

WSBA MEMBER WELLNESS Share Your Story

The Member Wellness Program wants to hear your inspiring stories. We know there are many challenges you have faced and hardships you have overcome. Share your story anonymously at <https://tinyurl.com/c5c8frft>. Your story can make a difference in the lives of your 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, LICSW., and Dan Crystal, Psy.D, meets the first Thursday of every month from 12-1 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.

[professionals/member-support/wellness/judicial-assistance-service-program](http://www.wsba.org/for-legal-professionals/member-support/wellness/judicial-assistance-service-program).

The 'Unbar' Alcoholics Anonymous Group

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

Health Benefits

The WSBA Private Health Insurance Exchange offers members access to the most competitive group health insurance solutions on the market. Speak to a benefits counselor and request a free quote today: www.memberbenefits.com/wsba.



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.



QUICK REFERENCE

Nov. 2024 Usury

The usury rate for Nov. 2024 is 12.00%. The auction yield of the Oct. 7, 2024, auction of the six-month Treasury Bill was 4.462%. The interest rate required by RCW 4.56.110(3)(a) and 4.56.115 for Nov. 2024 is 6.462%. The interest rate required by RCW 4.56.110(3)(b) and 4.56.111 for Nov. 2024 is 10.00%. [BN](#)

HAVE SOMETHING NEWSWORTHY TO SHARE?

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

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

Troy Xavier Kelley (WSBA No. 30998, admitted 2001) of Tacoma, was disbarred, effective 8/29/2024, by order of the Washington Supreme Court. Benjamin J. Attanasio, Amanda Lee, Kathy Jo Blake and Codee McDaniel acted as disciplinary counsel. Troy Xavier Kelley represented themselves. Henry E. Stiles II was the hearing officer. Bruce E. Heller was the settlement hearing officer.

The lawyer's conduct violated the following Rules of Professional Conduct: 8.4(b) (Criminal Act), 8.4(c) (Dishonesty, Fraud, Deceit or Misrepresentation), 8.4(i) (Moral Turpitude, Corruption or Disregard of Rule of Law).

Kelley was found to have violated the Rules of Professional Conduct by: 1) committing the felony offense of possession and concealment of stolen property; 2) committing the crime of possession and concealment of stolen property; 3) committing two counts of the felony offense of false declaration; 4) committing the crimes of false declaration; 5) committing five counts of the felony offense of filing false income tax returns; 6) committing the crimes of filing false income tax returns.

Decision documents: Hearing Officer's Decision; Disciplinary Board Order Adopting Hearing Officer's Decision; and Washington Supreme Court Order.

Resigned in Lieu of Discipline

Robert Eugene Kovacevich (WSBA No. 2723, admitted 1959) of Spokane, resigned in

lieu of discipline, effective 8/27/2024. The lawyer agrees that they are aware of the alleged misconduct in disciplinary counsel's Statement of Alleged Misconduct and rather than defend against the allegations, they wish to permanently resign from membership in the Association. Francisco Rodriguez acted as disciplinary counsel. Robert Eugene Kovacevich represented themselves.

The Statement of Alleged Misconduct reflects the following violations of the Rules of Professional Conduct: 3.1 (Meritorious Claims and Contentions), 3.4 (Fairness to Opposing Party and Counsel), 4.4 (Respect for Rights of Third Person), 8.4(a) (Violate the RPCs), 8.4(d) (Prejudicial to the Administration of Justice), 8.4(j) (Violate a Court Order).

Kovacevich's alleged misconduct includes: 1) soliciting and/or accepting a check from a client as payment for legal fees after the issuance of a court order removing the client as trustee of their mother's estate, and/or failing to return such funds when asked to do so by the successor trustee; 2) soliciting and/or accepting a check from a client as payment for legal fees after the issuance of a court order removing the client as trustee of their mother's estate; 3) failing to repay legal fees as required by a court's contempt order; 4) acting directly and/or through counsel, filing motions and/or notice of mediation that had no basis in law and/or fact; 5) acting directly and/or through counsel, filing a notice of appeal that was untimely as to one or more of the orders being appealed; 6) acting directly and/or through counsel, engaging in appellate litigation practices that violated practice norms.

Decision document: Resignation Form of Robert Eugene Kovacevich.


Suspended

Leslie R. Bottimore (WSBA No. 29957, admitted 2000) of Tacoma, was suspended for 14 months, effective 8/23/2024, by order of the Washington Supreme Court. Francisco Rodriguez acted as disciplinary counsel. David J. Elkanich represented Respondent. William J. Carlson was the hearing officer. Scott M. Ellerby was the settlement hearing officer.

The lawyer's conduct violated the following Rules of Professional Conduct: 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 1.6 (Confidentiality of Information), 1.15A (Safeguarding Property), 4.2 (Communication with Person Represented by Counsel), 8.4(a) (Prohibiting a lawyer from violating or attempting to violate the Rules of Professional Conduct, knowingly assisting or inducing another to do so, or doing so through the acts of another), 8.4(c) (Dishonesty, Fraud, Deceit or Misrepresentation), 8.4(d) (Prejudicial to the Administration of Justice).

Bottimore stipulated to suspension for: 1) failing to deposit advance fee payments received from clients into a trust account; 2) failing to timely communicate with clients regarding the legal fees that they had incurred; 3) failing to act with reasonable diligence in representing a client and failing to take reasonable steps to complete the dissolution and file a petition for modification of the client's support obligations; 4) charging clients for work that was not performed, and charging a client at a lawyer rate for work performed by a nonlawyer; 5) offering inaccurate testimony under oath at a disciplinary deposition about work allegedly performed for a client; 6) taking funds held in trust for a client's estate and using those funds to pay the client's legal fees outside of the probate process, and giving priority to Respondent's claim for fees over the claims of other creditors; 7) removing funds whose ownership was dis-

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puted from Respondent's trust account to pay Respondent's fees in the client's matter without first resolving the underlying ownership dispute; 8) communicating with the opposing party in a dissolution matter about the subject of the representation without the consent of the relevant party's lawyers, failing to take steps to ascertain whether the lawyer(s) of the opposing party consented to such communication, continuing to communicate with the opposing party after their lawyer(s) objected, and by directing a staff member to send a proposed stipulation directly to the opposing party; 9) disclosing confidential information relating to the representation of a client to the Better Business Bureau.

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

Neil Edward Humphries (WSBA No. 2737, admitted 1966) of Spokane, was suspended for 60 days, effective 8/23/2024, by order of the Washington Supreme Court. Erica Temple and Briana Gieri acted as disciplinary counsel. Neil Edward Humphries represented themselves. Jehiel Baer was the hearing officer. Randolph O. Petgrave III was the settlement hearing officer.

The lawyer's conduct violated the following Rules of Professional Conduct: 1.4 (Communication), 1.7 (Conflict of Interest: Current Clients), 1.14 (Client with Diminished Capacity).

Humphries stipulated to suspension for: 1) failing to reasonably consult with clients about the means by which the clients' objectives were to be accomplished; 2) providing legal services to clients, without their informed consent, confirmed in writing, to conflicts of interest created by Respondent's representation.

Decision documents: Disciplinary Board Order Approving Stipulation to Suspension; Stipulation to Suspension; and Washington Supreme Court Order. [BN](#)



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Jacob Broussard advises tribal nations on a wide range of matters across the full spectrum of Indian and tribal law, including environmental and cultural resource issues related to federal lands. He assists with drafting tribal constitutions, business codes, and tax codes, and has negotiated with various federal agencies on government contracts and grant funds.



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Darrah Hinton

BAR NUMBER: 53542

Darrah Hinton is an attorney at Davis Wright Tremaine, specializing in all facets of traditional labor law. Darrah leverages her unique union-side perspective to assist clients in navigating complex workplace issues, resolving union disputes, and negotiating contracts that promote fairness, collaboration, and sustainable workplace solutions.



If you could change one thing about the legal system, what would you change?

I would remove existing barriers and enhance accessibility. Many individuals, particularly those from marginalized communities or with limited resources, often find navigating the legal system overwhelming and costly. I would streamline procedures, reducing unnecessary complexity that creates barriers for people without legal expertise, and expand access to legal aid.

How did you become interested in your practice area?

My interest in labor law developed from my early experiences representing unions in various capacities. I saw firsthand how labor issues impact both employees and employers, particularly in sectors facing significant challenges. I found myself drawn to the dynamics of collective bargaining, where negotiation and advocacy play critical roles in balancing the needs of workers with the realities businesses face. I've come to find that labor law is not just about resolving disputes—it's about finding balanced solutions that help promote fairness, respect, and sustainability.

At the end of your career, how would you like to be remembered professionally?

I'd like to be remembered as a lawyer who consistently championed fairness, integrity, and collaboration. I hope to be recognized for my ability to effectively bridge the gap between workers and employers, helping to craft solutions that benefit both sides, while never losing sight of the human element behind every labor issue.

What is your best piece of advice for someone who's just entered law school?

Focus on building a solid foundation in both legal knowledge and critical thinking, but don't lose sight of the importance of relationships. The law can be demanding and intellectually challenging, but success is also about developing the ability to listen, collaborate, and network. **BN**

If you had to give a 10-minute presentation on one topic other than the law, what would it be and why?

The art and science of coffee brewing! Brewing coffee involves a fascinating blend of chemistry and physics and is more than just a way to make a drink; it's an exploration of flavors, a scientific experiment, and a daily ritual that can bring a little bit of joy and relaxation to life.

What is one thing your colleagues may not know about you?

I have a passion for cooking and find immense joy and creativity in the kitchen. Experimenting with new recipes and flavors is my way of unwinding after a long day. Whether it's trying out a complex dish from a different cuisine or perfecting my own version of a classic comfort food, cooking allows me to express myself in new ways.

What is your favorite smell?

Freshly baked cookies.

What book have you read more than once?

Beloved by Toni Morrison.

What is your best random fact that you would share with others at a party?

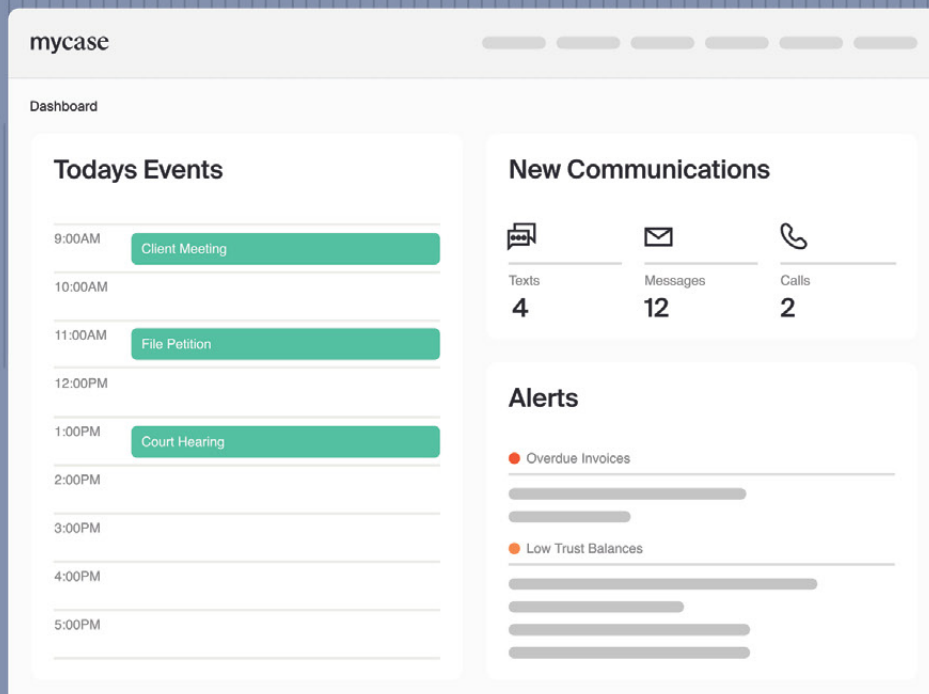
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