

**Oregon State Bar
Meeting of the Board of Governors**

February 18, 2011
Salem Conference Center
Open Session Agenda

The Open Session Meeting of the Oregon State Bar Board of Governors will begin at 9:00 a.m. on February 18, 2011.

Friday, February 18, 2011, 9:00 a.m.

- 1. Call to Order/Finalization of the Agenda**
- 2. Department Presentation**
 - A. Member and Public Services [Ms. Pulju] Inform
- 3. Report of Officers**
 - A. Report of the President [Mr. Piucci] Inform **5**
 - B. Report of the President-elect [Ms. Naucler] Inform **6**
 - C. Report of the Executive Director [Ms. Stevens]
 1. ED Operations Report Inform **7-11**
 2. ED Sustainability Report Inform **12-13**
 3. ED Hiring Report Inform
 - D. Oregon New Lawyers Division [Ms. Kessler] Inform **14-16**
 - E. Report of the BOG Liaison to MBA [Mr. Haglund] Inform
- 4. Professional Liability Fund [Mr. Zarov]**
 - A. Financial Report Inform **Handout**
- 5. Rules and Ethics Opinions**
 - A. Proposed Formal Opinion on Limited Scope Representation Action **17-20**
- 6. OSB Committees, Sections, Councils, Divisions and Task Forces**
 - A. Client Security Fund [Mr. Haglund]
 1. No. 10-39 OH(Johansen) Request for Review Action **21-42**
 - B. Mentoring Task Force [Ms. Stevens] Inform

- 7. BOG Committees, Special Committees, Task Forces and Study Groups**
- A. Appellate Screening Committee [Mr. Larson] Inform
 - B. Budget and Finance Committee [Mr. Kent]
 - 1. Changes to the OSB Investment Policy Action [43-44](#)
 - 2. Update on Tenants and Leases at the Bar Center Action [45-49](#)
 - 3. Oral Report of Committee Chair Inform
 - C. Executive Director Evaluation Committee [Ms. Garcia]
 - 1. Amendment of ED Contract Action [50-57](#)
 - D. Member Services Committee [Ms. Johnnie]
 - 1. Update on OSB Program Review Inform
 - 2. Recruitment for 2011 HOD elections Inform
 - E. Policy and Governance Committee [Ms. Naucler]
 - 1. Complimentary CLE for Active Pro Bono Members Action [58](#)
 - 2. ONLD Bylaw Changes Action [59-68](#)
 - 3. MCLE Rule and Regulation on Mentoring Action [69](#)
 - 4. Standing Committee on Urban/Rural Issues Action [70-98](#)
 - 5. Renewing Resolution to Amend ORPCs 1.2 and 3.4 Action [99-101](#)
 - 6. Advertising Rule Conformity Action [102](#)
 - 7. Amendment to Bylaw 24.201 (PLF Practice Management Activities) Action [103-106](#)
 - F. Public Affairs Committee [Mr. Johnson]
 - 1. Legislative Update Inform
 - G. Public Member Selection [Ms. Matsumonji]
- 8. Consent Agenda**
- A. Approve Minutes of Prior Meeting
 - 1. Open Session – November 13, 2010 Action [107-112](#)
 - 2. Judicial Proceedings – November 13, 2010 Action [113-114](#)
 - 3. Executive Session – November 13, 2010 Action [115](#)
 - 4. Special Session – January 7, 2011 Action [116](#)

B.	Appointments Committee		
1.	Appointments to Various Bar Committees, Boards and Councils	Action	Handout
C.	Ratify Board of Governors' Contact Assignments	Action	<u>117-119</u>
D.	Client Security Fund		
1.	No. 2010-08 GINSLER (Johnson)	\$ 1,200.00	Action <u>120-121</u>
2.	No. 2010-27 GINSLER (Rhodes)	\$ 1,200.00	Action <u>121</u>
3.	No. 2010-09 LaFOLLETT (Bayer)	\$50,000.00	Action <u>121-122</u>
4.	No. 2010-12 LaFOLLETT (Rutledge)	\$ 7,656.73	Action <u>123</u>
5.	No. 2010-29 LaFOLLETT (Moeser)	\$ 938.00	Action <u>123</u>
6.	No. 2010-07 LaFOLLETT (McFeters)	\$16,265.22	Action <u>123-124</u>
7.	No. 2010-14 LONG (Becker)	\$ 430.00	Action <u>124-125</u>
8.	No. 2010-22 OAKEY (Richardson)	\$ 500.00	Action <u>125</u>
9.	No. 2010-33 READ (Steck)	\$ 500.00	Action <u>125-126</u>

9. Default Agenda

A.	Member Correspondence		<u>127-132</u>
B.	Articles of Interest		<u>133-144</u>
C.	Minutes of Interim Committee Meetings		
1.	Access to Justice Committee		
a.	November 12, 2010		<u>145</u>
b.	January 7, 2011		<u>146</u>
2.	Appellate Screening Special Committee		
3.	Appointments Committee		
4.	Budget and Finance Committee		
a.	November 12, 2010		<u>147-148</u>
b.	January 7, 2011		<u>149-150</u>
5.	Executive Director Evaluation Special Committee		
6.	Member Services Committee		
a.	November 12, 2010		<u>151</u>

	b.	January 7, 2011	<u>152</u>
7.		Policy and Governance Committee	
	a.	November 12, 2010	<u>153</u>
	b.	January 7, 2011	<u>154</u>
8.		Public Affairs Committee	
	a.	November 12, 2010	<u>155</u>
	b.	January 7, 2011	<u>156</u>
D.		CSF Financials Report	<u>157-159</u>
10.		Closed Sessions (click here to access this password-protected document)	
	A.	Judicial Session (pursuant to ORS 192.690(1))	
		Reinstatements	<u>160-362</u>
		Disciplinary Counsel's Status Report	<u>363-367</u>
		Executive Session (pursuant to ORS 192.660(1)(f) and (h))	<u>368-371</u>
		General Counsel/UPL Report	
11.		Good of the Order (Non-action comments, information and notice of need for possible future board action)	

President Report Late December 2010- January 2011 - Early February 2011

Date	Event	Location
December 30, 2010	Investiture of Hon. Annette Hillman	Jefferson-Crook County Circuit Court
January 5, 2011	OSB Mentor Task Force Meeting	OSB
January 7, 2011	Investiture of Hon. Tim Gerking	Jackson County Circuit Court
January 13, 2011	Conference of Bar Leaders	OSB
January 14, 2011	met with Representative Frederick re: bills he is proposing this session	Portland, Oregon
January 20, 2011	- Mentorship video planning meeting - Marion County Bar Association Awards Dinner	- Steve Piucci Office - Salem, OR
January 21, 2011	Judge State Finals of Classroom Law Projects "We the People" competition - won by the awesome Grant Generals	Hatfield Federal Courthouse
January 22, 2011	ONLD Executive Committee Retreat with OSB liaison Steve Larson	Vernonia, OR
January 28, 2011	OSB Employee Appreciation Lunch	OSB
January 29, 2011	Oregon Criminal Defense Lawyer's Association Presentation on New Lawyer Mentorship Program	World Trade Center, Portland, OR
February 2, 2011	- Chief Justice Meeting -Oregon Minority Lawyer Luncheon/Presentation of New Lawyer Mentoring Program	- Salem, OR - Portland, OR
February 9-12, 2011	National Council of Bar President's Conference	Atlanta, GA

President Elect's Report, February 2011

Jan. 6, 2011	Attend swearing-in of Linn Circuit Judge McHill	Albany
Jan. 7, 2011	BOG Committee meetings	Tigard
Jan. 13, 2011	Legislative Tips CLE for Bar Leaders	Tigard
Jan. 20, 2011	Marion County Bar Assoc. Awards Dinner	Salem
Feb. 2, 2011	Meet with Chief Justice	Salem
Feb. 11, 2011	Oregon Law Foundation Mtg.	Tigard
Feb. 11, 2011	Oregon Hispanic Bar Assoc. Awards Dinner	Portland
Feb. 15, 2011	PLF Board meeting	Phone

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: February 18, 2010
From: Sylvia E. Stevens, Executive Director
Re: Operations and Activities Report

OSB Programs and Operations

Department	Developments
Accounting & Finance/Facilities (Rod Wegener)	<ul style="list-style-type: none"> • Delivered 2011 Member Fee notices electronically. Only 1% of the original email notices sent out came back as undeliverable; they were printed and mailed to members without email addresses. There have been some member complaints, from which we have collected several good suggestions to implement in 2012. • As of 1/31/2011 we had 40% of all Member Fee payments come in online, a significant increase over all prior years. • As of 1/31/2011 92% of members have paid their member fees, less than the 95% who had paid by that date in 2010. The difference is believed to be the result of the bad economy. • We are working through the lease termination with Opus and developing plans for alternate uses of the available space. Additional information will be presented during the BOG meeting.
Admissions (Jon Benson)	<ul style="list-style-type: none"> • The first phase of the on-line bar application was launched on January 21, 2011. • The Admissions Director and the Board of Bar Examiners (BBX) will visit each of the 3 Oregon law schools in the first quarter of 2011 to present information and answer questions about the exam and "character and fitness" investigations. • Reciprocity applications are 212% above average. • The BBX is monitoring the progress of a Uniform Bar Exam (UBE), endorsed by the National Conference of Chief Justices. It is intended to create a "portable" license to facilitate travel and practice across the U.S. • Because it is now possible to store an entire set of bar review outlines on portable devices like the iPod Touch, the BBX has adopted a "zero tolerance" policy regarding possession of electronic devices at the exam site and has purchased and has used cell phone detectors. • Staff is busy preparing for the February 22-23, 2011 bar exam. • There is an increase in the number and diversity of testing accommodations requests (ADAAA).
CLE Seminars (Karen Lee)	<ul style="list-style-type: none"> • Live attendance continues to decrease (4,852 in 2010, compared to 5,541 in 2009 and 6,488 in 2008). • Live webcast attendance has increased significantly (878 in 2010, compared to 416 in 2009 and 237 in 2008). The largest live webcast audience was for our November child abuse reporting session: 170 people registered for the webcast, compared to 35 for the live event at the OSB Center. • Sales of on-demand, online CLE continue to be strong. In 2010 and 2009, approximately 2,000 online seminars (both entire day-long seminars and individual seminar sessions) were purchased. • MP3 downloads showed the greatest increase in sales – 695 downloads in 2010 compared to 168 in 2009. This increase can be attributed not only to having more MP3 downloads available but also to greater efforts to inform members about different CLE formats.

	<ul style="list-style-type: none"> • Attorneys in other states have purchased on-demand online CLE or attended live webcasts of OSB CLE through the online network OSB CLE utilizes (InReach, formerly known as LegalSpan). Recently, the Oklahoma Bar asked OSB CLE to segment one of its all day videos (“50 Under 50: 50 Tips for Businesses with Fewer than 50 Employees”) into individual sessions to sell to Oklahoma bar members. • The quality of the CLE program remains high; of the attendees returning an evaluation, 85% rated the overall quality of the seminars as “excellent” and “very good,” which is comparable to the 2009 rating (86%). 94% rated the check in process as “excellent” and “very good” while 93% rated the on-site staff as “excellent” or “very good.” In 2009, the check in process and on-site staff were rated “excellent” and “very good” by 93% and 92% of attendees, respectively.
<p>General Counsel (including CAO) (Helen Hirschbiel)</p>	<ul style="list-style-type: none"> • Amber Hollister started as Deputy General Counsel on January 3, 2011. She is doing great. • The UPL Committee continues making great strides at clearing its docket. It currently has only 11 investigations pending, all but one of which are less than a year old, and most of which are less than 6 months old. It received 38 new complaints last year, which is down about 20% from the average of years past. We have no idea what this might mean, if anything. • We closed 95 Fee Arbitration matters in 2010, 42% of which were settled either by an arbitrator at hearing or by the parties themselves prior to hearing. • In 2010 CAO resolved 1939 inquiries (this number represents only those in which a lawyer is named and more than general information is requested). 980 inquiries were dismissed; 125 were appealed to General Counsel and all but two were affirmed. 242 cases were referred to DCO. Slightly more than half of the matters reviewed by CAO arise from criminal and domestic relations cases. Clients continue to constitute the single largest source of inquiries. There is a slight upward trend in referrals from judges.
<p>Human Resources (Christine Kennedy)</p>	<ul style="list-style-type: none"> • HR is preparing for the Director of Diversity and Inclusion recruitment process. • Camille Greene was promoted from Public Affairs Assistant to Executive Assistant and Amanda Roeser was promoted from Receptionist to Public Affairs Assistant. • Directors and Managers will attend training in March about communicating difficult messages. • RIS and HR are working on a “work-study” opportunity for Lewis & Clark College students to work as RIS Assistants answering referral phone calls. There currently are two openings in that department. • HR is creating a wellness program aimed at encouraging staff to walk. A competition begins next week.
<p>Information & Design Technology (Anna Zanolli)</p>	<ul style="list-style-type: none"> • IDT upgraded the online fee payment site for 2011; almost \$200,000 was collected through the online site during the first 24 hours after notices were sent. Significant printing and postage dollars were saved by mailing statements only to those members who either did not have an email addresses on record with the bar or whose email address had been flagged as undeliverable. • IDT produced the bar's new Resource Directory which for the first time was distributed as a supplement with the January 2011 issue of the <i>Bulletin</i>. The size of this annual directory was reduced by 40% and a lighter weight paper stock was used, both changes resulting in significant savings for both printing and postage costs (printing dropped from \$64,000 the previous year to \$22,000 for the new Resource Directory) while advertising revenue remained at \$114,000. As of the date of this report, 9 print copies of the white pages had been sold to members and firms and 58 pdfs of the same white pages were downloaded from the bar's website. No copies of the Resource Directory have been sold at this point. • IDT worked closely with Linda Kruschke in CLE Publications to renovate the BarBooks site for its “member benefit” launch on Jan 1. The site now provides both the new pdf

	<p>download and comment features through the existing interface, which streamlined the development time and allowed staff to use the existing admin system to manage the new pdf content. Logs from the first month of operation show that 499 members downloaded 2,245 books between Jan 3 and Feb 1. The top five books downloaded were Family Law (110 downloads), Administering Oregon Estates (108), Uniform Civil Jury Instructions (108), Guardianships, Conservatorships, and Transfers to Minors (94), and Oregon Trial Objections (87). Each member downloaded an average of 4.5 books and 49% of them downloaded a single book. Windows was the predominant operating system used at 87% while iPhones/iPads were used for 1% of the downloads.</p>
<p>Legal Publications (Linda Kruschke)</p>	<ul style="list-style-type: none"> • The BarBooks™ “comment feature” was launched on 1/19/11. To date we have had one member comment posted. We will be including a notice about this new feature in the next Bar Bulletin and email Bar News. Comments can be posted for each book, and the Comment button indicates how many comments have already been posted for that book. • Working with IDT to provide access to BarBooks™ to the Oregon law schools at the cost of \$2,495 per year. • 4 books are releasing this month by pre-order (<i>Appeal & Review: The Basics</i> – 113 copies; <i>Uniform Civil Jury Instructions</i> supplement –269 copies; <i>Oregon Administrative Law</i> – still taking orders; <i>Uniform Criminal Jury Instructions</i> supplement – no orders yet) • Books in progress include: <i>Labor and Employment: Private</i>-revision; <i>Labor and Employment: Public</i>-revision; <i>Construction Law</i>-revision; <i>Health Law</i>-new edition; <i>Insurance Law</i>-new edition; <i>Oregon Civil Pleading and Practice</i>-revision
<p>Legal Services/OLF (Judith Baker)</p>	<ul style="list-style-type: none"> • Staff is working with the General Counsel’s department to draft bylaws and policies around the unclaimed client funds submitted by lawyers from their lawyer trust accounts. These funds are to be used for the funding of legal services provided through the bar’s LSP. A distribution method will need to be developed and approved. \$134,748 has been collected to date. • Judith Baker is working with Susan Grabe and legal aid staff on legislative issues affecting the filing fee funds administered by the bar and going to legal aid. • The new accountability system to monitor legal aid providers receiving funds from the bar was forwarded to legal aid for completion with a due date of March 4. • The LRAP applications have been updated and are currently available for new applicants. The deadline for submission is April 15. • IOLTA Certifications are due January 31 and staff is busy coordinating the submission of the forms. • The OLF Rules Committee anticipates recommending to the full OLF board that a formal feasibility study be conducted to determine if there are compelling reasons to adopt a comparability rule by revising ORPC 1.15-2.
<p>Member & Public Services (Kay Pulju)</p>	<ul style="list-style-type: none"> • Hosted the Section Leader Conference, designed to provide section leaders with information to make their year more successful. • Published the January <i>Bulletin</i>, which was mailed with the new Resource Directory. Also published an edition of the electronic Bar News, which included updates on BarBooks™, the membership directory and new e-mail requirements. • Taped two Legal Links cable TV programs: Traffic Law Update and Gun Laws. • Planning underway for the May Bar/Press/Broadcasters program, a popular annual event focusing on issues raised by high-profile cases. • Recruiting mentors for the New Lawyer Mentoring Program, with about 110 mentors already signed up and new applications arriving steadily. Training materials are in development. • Developing a training session for committee officers and liaisons interested in utilizing Adobe web conferencing when members of the committee are unable to attend meetings in-person.

	<ul style="list-style-type: none"> • Recruiting candidates for the OSB and ABA House of Delegates election and calendaring meetings and organizing ONLD event details for 2011. • Preparing for the annual 50-Year Member Recognition luncheon and developing timelines and materials for the bar’s annual awards process. • Launching the Section CLE MP3 program to capture short, specialized CLE presentations offered by bar sections and make them readily available to lawyers outside the metro area. • Began discussions with Lewis & Clark College (LC) to explore employing LC work-study undergraduate students as RIS Assistants. Preliminary discussions pointed to some challenges – principally legal, administrative, and logistical – that must be resolved before such a program can be considered.
<p>Minimum Continuing Legal Education (Denise Cline)</p>	<ul style="list-style-type: none"> • Processed over 7,000 program accreditation applications and over 1,100 applications for other types of CLE credit (teaching, legal research, etc.) during 2010. • Instituted delivery of compliance reports via e-mail. • Completing processing of 4000+ compliance reports for the period ending 12/31/10.
<p>Public Affairs (Susan Grabe)</p>	<ul style="list-style-type: none"> • Law Improvement Package – This year the OSB has submitted 17 bills, all of which have been introduced and referred to their respective committees. Public Affairs is working with OSB sections to be ready with testimony when hearings are scheduled. • Staff continue to meet with legislators to discuss the bar’s proposals and other issues affecting the judicial system. • Public Affairs worked closely with Executive Services to assist with planning the February 17 legislative reception. • The 2011 Legislative Tips Workshop and CLE was held in conjunction with the Section Leadership Conference. The event was well attended, with approximately 50 OSB members in attendance. Several legislators including the Senate and House Judiciary Committee chairs participated in the event. • Public Affairs is working with Member & Public Services on a Bulletin article about lawyer legislators and public service. • Public Affairs staff is monitoring all bills introduced during the legislative session, and referring to sections any bills that may be of interest.
<p>Regulatory Services (Jeff Sapiro)</p>	<ul style="list-style-type: none"> • The SPRB had its first meeting of the year on January 15. That meeting included an orientation session for the four new members (out of a total of 10) on the board. There will soon be a fifth new member because public member (and former BOG public member) Jon Hill has resigned to take a job in California; • Staff is compiling data from 2010 to assess performance and to prepare the office’s annual report; • Staff was involved in three disciplinary trials in January. One additional case was settled the night before trial was to begin; • Regulatory Services staff are busy with membership status change requests. A substantial number of bar members each year choose to transfer to inactive status or resign before the January 31 deadline.

Executive Director’s Activities November 15, 2010 to February 16, 2011

Date	Event
11/16/2010	CEJ Board Meeting and Campaign Kick-Off
11/17/2010	Bus. Comm. for Arts Annual Breakfast of Champions (guest of Michelle Garcia)
11/30/2010	Lunch with Judges Wilson & Nelson re: diversity issues
12/2/2010	Federal Bar Assn. Reception Honoring Steven Wax
12/2/2010	OSB Annual Awards Dinner
12/8/2010	Law Firm Lunch: Gevurtz Menashe
12/9/2010	Professionalism Commission
12/10/2010	PLF Board Meeting and PLF Annual Dinner
12/14/2010	Queen’s Bench Annual Judge’s Luncheon
12/15/2010	“Law Girls” Breakfast (EDs of MBA, OWLs, OTLA, LASO, OLF)
12/15/2010	CEJ Annual Reception-Mahonia Hall
12/16/2010	Landye Bennett Holiday Party
1/6/2011	Law Firm Lunch: Brownstein Rask
1/8/2011	AAC/Diversity Section Retreat
1/13/2011	Legislative Tips Workshop & Section Leaders Conference
1/19/2011	“Law Girls” Breakfast
1/20/2011	Marion County Bar Dinner honoring Kathleen Evans
1/21/2011	“We the People” Competition (judge)
1/27/2011	Memorial Service for OSB Member Richard Brownstein
1/27/2011	OWLs/US Attorney’s Office reception
1/27/2011	Markewitz Herbold Annual Reception
2/1/2011	Oregon Chapter National Bar Association Reception
2/2/2011	Meet with Chief Justice
2/2/2011	Oregon Minority Lawyers Association Lunch
2/8-12/2011	NABE & NCBP Mid-Year Meetings (Atlanta)

Sustainability Policies and Practices at the Oregon State Bar Center

Sustainable Policy Recommendations

1. All PCs will default to a Canon copier and set to default to two-sided print. Individual users will change the setting when need to print one-sided or print to another printer.
2. All monitors are set to go to “stand by” after 20 minutes. Moving to this mode saves energy and is a security precaution (recommendation also made by the bar’s auditors).
3. All PC’s are to be turned off at the end of each business day. When leaving for the day, the user is to click Start/Shut Down/OK. This saves energy and allows for more timely downloads of upgraded software installed the day before. *Exception:* Staff who require remote access after work hours and before the next work day.
4. All faxes received at the reception desk are emailed to the intended recipient and no longer printed and hand-delivered.

Sustainable Practices in Place

1. All dead batteries from small electrical units are to be dropped in a recycling box located in the copy center (first floor), the executive services copy area (second floor), Discipline copy room, CLE Seminars, and the first floor AV room.
2. No disposable plates, cups, and silverware are used in the second floor lunch room. Reusable glasses, mugs, and silverware have been purchased.
3. A second dishwasher has been installed in the second floor kitchen to accommodate events with many attendees.
4. Reusable dishes and mugs are stored for use in the meeting rooms on the second floor.
5. All Canon copiers are programmed to go into sleep mode after 20 minutes of non-use.
6. The Sustainability Team occasionally will place a “Tip of the Week” about bar sustainable policies or practices or other personal or business sustainable ideas on the intranet.
7. Staff no longer receive a print copy of the Bulletin. The magazine can be read online or pick up a copy at the Communications Department.
8. The HVAC system is timed to operate only when the building is occupied during work hours (7:00am to 5:30pm) or when meetings are scheduled in the evening or Saturdays. (This

means if a staff person works at the bar center at other than these hours, there will be no heating or cooling.)

9. The lights in the parking lot go on and off with the appropriate level of light.
10. The internal building lights are on timed schedules.
11. Recycle bins are placed in each meeting room to recycle all items accepted by the bar's recycling service.
12. Recycled paper containers are located in numerous locations and in the same area as all convenience copiers.
13. Containers for numerous recycled products are located in the lunch rooms.
14. The bar will retain the Energy Star rating for the building.
15. All future PC purchases will have an Energy Star rating.

Sustainable Practices Under Consideration/Being Evaluated

1. Convert all copier paper to 100% recycled paper.
2. Convert all bathroom tissue to 100% recycled paper.
3. All staff are to receive bar mail via email by selecting so in the SNAP program. To receive by another manner, staff must individually select.
4. Establish the staff work area temperature standard at 70 degrees for heat and 74 degrees for cooling.
5. Determine how many individual refrigerators are in the building; determine rationale, and energy drain.
6. Follow-up on alternate transportation to work.
7. Complete an application for "Washington County Recycle at Work Business."
8. The IDT staff will evaluate the need for all HP and Canon printers and scanners when the respective contracts expire.
9. All print jobs default to the user's "mailbox" on a Canon printer.
10. The default for sending notices, documents, and returned mail is a PDFs via email. (???)

10/11/2010

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: February 18, 2011
Memo Date: January 31, 2010
From: Tamara Kessler, Oregon New Lawyers Division Chair
Re: ONLD Report

To begin the year the ONLD Executive Committee met in Vernonia for their annual retreat and January Executive Committee meeting. In addition to continuing the projects the Executive Committee administered last year, we are enthusiastic about a new special project aimed at increasing the number of new lawyer volunteers working with established pro bono organizations. The ONLD hopes to publicize existing programs to the membership with the hope that unemployed or underemployed new lawyers will contribute their time and gain valuable experience.

Since the last BOG meeting, members of the ONLD attended and hosted several events. In early November the ONLD's annual meeting brought more than 125 new lawyers together in Portland.

January 20 was the first brown bag CLE seminar held at the Multnomah County Courthouse this year. Future programs in Multnomah County are scheduled each month for the remainder of this year. The subcommittee will also host CLE programs in Bend, Eugene, Medford, and Salem.

The Law Related Education Subcommittee selected the 2011 Essay Contest topic which will focus on the First Amendment rights concerning video games. The contest offers students an opportunity to compete for a \$500, \$350, or \$250 scholarship (respectively for first, second, and third place) by demonstrating their analytical and writing skills in a persuasive essay. This year the subcommittee is working with the Classroom Law Project to pair the essay competition with a classroom lesson plan with the hope to increase awareness on this issue.

We would like to thank Steve Pucci and Steve Larson for taking the time to participate in the ONLD retreat to provide feedback on planning of this year's special project.

2011 ONLD Master Calendar

Last updated January 28, 2011

Date	Time	Event	Location
February 18	4:30 p.m.	Ethics CLE and social	The Ram, Salem
February 19	9:00 a.m.	Executive Committee Meeting	Salem Conference Center
February 22-23	All Day	Bar Exam	Portland
February 24	Noon	CLE	Clackamas Co. Courthouse
March 17	Noon	Starting your own practice CLE	Multnomah Co. Courthouse
March 18	9:00 a.m.	BOG Committee Meeting	OSB, Tigard
March 18	TBD	Dinner with the BOG	TBD
March 19	9:00 a.m.	Executive Committee Meeting	OSB, Tigard
April 8	5:30 p.m.	CLE Program & Social	Holiday Inn Express, Eugene
April 9	9:00 a.m.	Executive Committee Meeting	Holiday Inn Express, Eugene
April 15-16	9:00 a.m.	BOG Board Meeting	Pendleton
April 21	Noon	HIPAA CLE	Multnomah Co. Courthouse
May 6	1:30 p.m.	Swearing In Ceremony & Reception	Willamette University, Salem
May 12-14	All Day	ABA Spring Conference	Las Vegas, NV
May 19	Noon	Child abuse reporting	Multnomah Co. Courthouse
May 20	9:00 a.m.	BOG Committee Meeting	OSB, Tigard
May 20	5:30 p.m.	CLE Program & Social	Greg's Grill, Bend
May 21	6:30 a.m.	Pole, Pedal, Paddle	Mt. Bachelor Monument, Bend
May 22	9:00 a.m.	Executive Committee Meeting	Sunriver
June 11	9:00 a.m.	Executive Committee Meeting	OSB, Tigard
June 16	Noon	Ethics CLE	Multnomah Co. Courthouse
June 16	Noon	Solo practice CLE	CCC, Oregon City
June 24-25	9:00 a.m.	BOG Board Meeting	OSB, Tigard
July 21	Noon	Jury selection CLE	Multnomah Co. Courthouse

Bold indicates an update since the last version

July 26-27	All Day	Bar Exam	Portland
July 29	9:00 a.m.	BOG Committee Meeting	OSB, Tigard
August 4-6	All Day	ABA Annual Meeting	Toronto, Canada
August 5-7	All Day	OLIO Orientation	Hood River Inn, Hood River
August 5	7:00 p.m.	ONLD Social Event at OLIO	Hood River Inn, Hood River
August 6	9:00 a.m.	Executive Committee Meeting	Hood River Inn, Hood River
August 17-21	All Day	Lane County Fair	Lane County Fairgrounds
August 18	Noon	IP CLE	Multnomah Co. Courthouse
August 26-27	9:00 a.m.	BOG Board Meeting	OSB, Tigard
September 15	Noon	IP law CLE	Multnomah Co. Courthouse
September 16	5:30 p.m.	CLE Program & Social	TBD, Medford
September 17	9:00 a.m.	Executive Committee Meeting	Rogue Regency, Medford
September 23	9:00 a.m.	BOG Board & Committee Meetings	OSB, Tigard
October 6	1:30 p.m.	Swearing In Ceremony & Reception	Willamette University, Salem
October 13-15	All Day	ABA Fall Conference	Seattle, WA
October 20	Noon	Family law CLE	Multnomah Co. Courthouse
October 22	9:00 a.m.	Executive Committee Meeting	OSB, Tigard
October 22	6:00 p.m.	BOWLIO	Pro 300 Lanes, SE Portland
October 25	2:00 p.m.	Pro Bono Fair	World Trade Center, Portland
October 28	TBD	HOD Annual Meeting	OSB, Tigard
November 4	5:30 p.m.	Annual Meeting	Hotel Monaco, Portland
November 17	Noon	Products liability CLE	Multnomah Co. Courthouse
November 17-19	All Day	BOG Retreat	The Allison, Newberg
December 15	Noon	Professionalism	Multnomah Co. Courthouse

Bold indicates an update since the last version

PROPOSED

FORMAL OPINION NO. 2010-183

Scope of Representation; Limiting the Scope

Facts:

Lawyer A is asked by Client X for assistance in preparing certain pleadings to be filed in court. Client X does not otherwise want Lawyer A's assistance in the matter, plans to appear *pro se*, and does not plan to inform anyone of Lawyer A's assistance.

Lawyer B has been asked to represent Client Y on a unique issue that has arisen in connection with complex litigation in which Client Y is represented by another law firm.

Lawyer C has consulted with Client Z about an environmental issue that is complicating Z's sale of real property. Client Z asks for Lawyer C's help with the language of the contract, but intends to conduct all of the negotiations with the other party and the other party's counsel by herself.

Question:

1 May Lawyers A, B and C limit the scope of their representations as requested by the respective clients?

Conclusion:

1. Yes, qualified.

Discussion:

In each example, the prospective client seeks to have the lawyer handle only a specific aspect of the client's legal matter. Such limited scope representation¹ is expressly allowed by Oregon RPC 1.2(b):

A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

As the examples herein reflect, a lawyer may limit the scope of his or her representation to taking only certain actions in a matter (e.g., Lawyer A's drafting 'or reviewing pleadings), or to only certain aspects of, or issues in, a matter (e.g., Lawyer B's representation on a unique issue in litigation, or Lawyer C's advising in a single issue in a transactional matter). In order to

¹ This is sometimes described as the "unbundling" of legal services, or as "discrete task representation."

limit the scope of the representation, RPC 1.2 requires that (1) the limitation must be reasonable under the circumstances, and (2) the client must give informed consent.²

With respect to the requirement that the limitations of the representation be reasonable, comment [7] to ABA Model Rule 1.2 offers the following guidance:

If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

The second requirement of RPC 1.2 is the client's informed consent to the limited scope representation. RPC 1.0(g) defines informed consent as:

[T]he agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct. * * *

Obtaining the client's informed consent requires the lawyer to explain the risks of a limited scope representation. Depending on the circumstances, those risks may include that the matter is complex and that the client may have difficulty identifying, appreciating, or addressing critical issues when proceeding without legal counsel.³ One "reasonably available alternative," is to have a lawyer involved in each material aspect of the legal matter. The

² A lawyer providing a limited scope of services must be aware of and comply with any applicable law or procedural requirements. For example, if Lawyer A drafts pleadings for Client X, the pleadings would need to comply with Uniform Trial Court Rule ("UTCRC") 2.010(7), which requires a Certificate of Document Preparation by which a pro se litigant indicates whether he or she had paid assistance in selecting and completing the pleading.

³ A limited scope representation does not absolve the lawyer from any of the duties imposed by the RPCs as to the services undertaken. For example, the lawyer must provide competent representation in the limited area, may not neglect the work undertaken, and must communicate adequately with the client about the work. *See, e.g., Oregon RPC 1.1, 1.3, 1.4.* Likewise, a lawyer providing limited assistance to a client must take steps to assure there are no conflicts of interest created by the representation. *See, e.g., Oregon RPC 1.7, 1.9.*

explanation should also state as fully as reasonably possible what the lawyer will not do, so as to prevent the lawyer and client from developing different expectations regarding the nature and extent of the limited scope representation.

By way of example, Oregon RPC 4.2 generally prohibits a lawyer from communicating with a person if the lawyer has actual knowledge the person is represented by a lawyer on the subject of the communication.⁴ Mere knowledge of the limited scope representation may not be sufficient to invoke an obligation under Oregon RPC 4.2.⁵ Accordingly, the lawyer providing the limited scope representation should communicate the limits of Oregon RPC 4.2 with the client. If the client wants the protection of communication only through the lawyer on some or all issues, then the lawyer should be sure to communicate clearly to opposing counsel the scope of the limited representation and the extent to which communications are to be directed through the lawyer.⁶

⁴ Oregon RPC 4.2 provides that, “[i]n representing a client or the lawyer’s own interests, a lawyer shall not communicate or cause another to communicate on the subject of the representation with a person the lawyer knows to be represented by a lawyer on that subject unless:

- (a) the lawyer has the prior consent of a lawyer representing such other person;
- (b) the lawyer is authorized by law or by court order to do so; or
- (c) a written agreement requires a written notice or demand to be sent to such other person, in which case a copy of such notice or demand shall also be sent to such other person’s lawyer.”

See, e.g., OSB Legal Ethics Op Nos. 2005-6 (discussing communicating with a represented party in general) and 2005-80; *In re Newell*, 348 Or 396, 234 P3d 967 (2010) (reprimanding lawyer for communicating in a civil case with a person known to be represented by a criminal defense lawyer on the same subject). See also Oregon RPC 1.0(h), which provides: “‘Knowing,’ ‘known,’ or ‘knows’ denotes actual knowledge of the fact in question * * *.”

⁵ *See, e.g.*, Colorado RPC 4.2 cmt [9A] (“[a] *pro se* party to whom limited representation has been provided * * * is considered to be unrepresented for purposes of this Rule unless the lawyer has knowledge to the contrary”); Los Angeles County Bar Association Prof’l. Responsibility and Ethics Committee, Formal Op. No. 502 (1999) (“[s]ince Attorney is not counsel of record for Client in the litigation * * * the opposing attorney is entitled to address Client directly concerning all matters relating to the litigation, including settlement of the matter”); Missouri Supreme Court Rule 4-1.2(e) (“[a]n otherwise unrepresented party to whom limited representation is being provided or has been provided is considered to be unrepresented for purposes of communication under Rule 4-4.2 and Rule 4-4.3 except to the extent the lawyer acting within the scope of limited representation provides other counsel with a written notice of a time period within which other counsel shall communicate only with the lawyer of the party who is otherwise self-represented”); Washington D.C. Bar Op. 330 (2005) (“[e]ven if the lawyer has reason to know that the *pro se* litigant is receiving some behind-the-scenes legal help, it would be unduly onerous to place the burden on that lawyer to ascertain the scope and nature of that involvement. In such a situation, opposing counsel acts reasonably in proceeding as if the opposing party is not represented, at least until informed otherwise”).

⁶ While not required, it may be advisable to clarify the scope of the limited scope representation in writing to opposing counsel. *Cf.* Washington RPC 4.2 cmt. [11] (providing “[a]n otherwise unrepresented person to whom limited representation is being provided or has been provided in accordance with Rule 1.2(c) is considered to be unrepresented for purposes of this Rule unless the opposing lawyer knows of, or has been provided with, a written notice of appearance under which, or a written notice of time period during which, he or she is to communicate

In the case of Lawyer A, even if the lawyer's participation was announced in compliance with court rules (such as by compliance with UTCR 2.010(7)), Oregon RPC 4.2 would not be implicated because Lawyer A is not counsel of record and the limited assistance in preparing pleadings is not evidence that Lawyer A represents Client X in the matter.⁷ In the case of Lawyer C, the lawyer should make clear to Client Z that that the limited scope representation does not include communication with the opposing counsel.

Finally, while the client's informed consent to the limited scope representation is not generally required to be in writing,⁸ an effective written engagement letter minimizes any such risks if it "specifically describe[s] the scope of representation, how the fee is to be computed, how the tasks are to be limited, and what the client is to do."⁹ THE ETHICAL OREGON LAWYER §15.16 (Oregon CLE 2006).

only with the limited representation lawyer as to the subject matter within the limited scope of the representation").

⁷ See, e.g., Kansas Bar Association Legal Ethics Op. No. 09-01 (2009): "Attorneys who provided limited representation must include on any pleadings a legend stating "Prepared with Assistance of Counsel." But "[a]n attorney who receives pleadings or documents marked with the legend 'Prepared with Assistance of Counsel' has no duty to refrain from communicating directly with the *pro se* party, unless and until the attorney has reasonable notice that the *pro se* party is actually represented by another lawyer in the matter beyond the limited scope of the preparation of pleadings or documents, or the opposing counsel actually enters an appearance in the matter."

See also State Bar of Nevada Standing Committee on Ethics and Prof'l. Responsibility, Formal Op. No. 34 (2009) (an ostensibly *pro se* litigant assisted by a 'ghost-lawyer' is to consider the *pro se* litigant 'unrepresented' for purposes of the RPCs, which means that the communicating attorney must comply with Rule 4.3 governing communications with unrepresented persons).

⁸ Since RPC 1.2 does not require a writing, RPC 1.0 does not require a recommendation to consult independent counsel. It is worth noting, however, that if the lawyer is providing a limited scope representation with respect to a contingency matter, such an arrangement would need to be in writing. See ORS 20.340. *See also* FEE AGREEMENT COMPENDIUM ch. 8 (OSB CLE 2007).

⁹ In addition, "when a lawyer associates counsel to handle certain aspects of the client's representation, the division of responsibility between the lawyers should also be documented in a written agreement." *See* FEE AGREEMENT COMPENDIUM ch. 9 (OSB CLE 2007). *See also* Oregon RPC 1.5(d) (discussing when fees may be split between lawyers who are not in the same firm).

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: February 18, 2011
From: Sylvia E. Stevens, Executive Director
Re: CSF Claim No. 2010-39 OH (Johansen)

Action Recommended

Consider the claimant's timely request for BOG review of the CSF Committee's denial of his application for reimbursement.

CSF Committee Decision

On December 8, 2010, Steven Johansen submitted an application for reimbursement from the CSF, seeking to recover \$15,000 he had loaned to attorney John Oh. Two weeks later, Johansen amended his application, claiming that the correct amount of his loss was \$19,000. In his application, Johansen alleged that "Oh used his professional standing as an attorney to leverage his strength and position to obtain funds from me." In response to the question "Was there at any time a family, personal, business or other relationship between you and the lawyer?", Johansen circled "personal" and stated "Borrowed monies from me as a personal favor to him in a Client/Attorney relationship."

At its meeting on January 22, 2011, the CSF reviewed Johansen's claim for reimbursement and voted unanimously to deny it. The committee found that Johansen had not been candid with the committee and that his loss was only \$3000. More importantly, the committee concluded that, despite Oh's misrepresenting the use to which he would put the funds, Oh's conduct didn't constitute dishonesty within the meaning of the CSF Rules.¹ Rather, the committee concluded that Johansen had made a series of loans as a personal favor to Oh. Johansen was informed of the committee's decision and has made a timely request for BOG review (see attached).²

Claim Facts

In 2002 Johansen hired a law firm to assist with an immigration petition for his wife and her children. Oh was an associate in the firm and was assigned the case. The marriage didn't last long and in early 2004, Johansen hired Oh (who by then was practicing on his own) to get a passport for his baby daughter who was living abroad with Johansen's then ex-wife. In May 2004, Oh filed a passport application for Johansen's daughter. It is not clear whether there was additional legal work performed on the matter, although Johansen says Oh continued to

¹ CSF Rule 1.6: "Dishonest conduct" means a lawyer's willful act against a client's interest by defalcation, by embezzlement, or by other wrongful taking."

² Unfortunately, the letter informing Mr. Johansen of the Committee's decision had the wrong date, told him to send his request for review to "Theresa Schmid, Executive Director," and was signed "Sylvia Stevens, Executive Director." Mr. Johansen was understandably confused.

provide legal services by ensuring that Johansen's ex-wife kept her appointments with the INS and to answer questions that arose.

Between February 2004 and February 2005, Johansen made five loans to Oh totaling \$18,000. The first was a \$5000 loan in February 2004 while Oh was representing Johansen. A second loan of \$5000 was made in November 2004. Oh acknowledged his debt of \$10,600 (including interest) in an e-mail dated November 16, 2004. He promised to repay the debt at the rate of \$1000 per month beginning in February 2005. Two additional loans were made, one for \$5000 and one for \$3000 a few days apart in February 2005. Oh acknowledged his obligation (totaling \$18,000 plus interest at 3%) in a February 2005 letter to Johansen, and promised to pay \$1000 each month beginning in May 2005. In connection with at least one of the loans, Oh represented that he needed money to pay his malpractice premiums so he could continue practicing.

Oh didn't repay the loans as promised. Johansen provided an e-mail exchange from December 2006 in which he demanded an outstanding balance of \$9500 plus interest. Johansen has not provided documentation of any other communication between himself and Oh, although he contends he made continuing unsuccessful efforts to collect on his loans. At some point, Johansen agreed to defer payment until April 2008 in exchange for the additional sum (interest?) of \$500.

In about March 2008, Oh moved to Los Angeles without notice to Johansen or to any of his clients, many of whom complained to the bar. Johansen filed a complaint, alleging that "[Oh] is out of business and refuses to honor his debt to me....As of April 30, 2008 John Oh still owes me the sum of \$3500." Johansen included with his complaint a copy of an undated letter to Oh demanding the same amount. Eventually, Johansen's complaint resulted in a charge that Oh failed to respond to the bar's inquiries.³

When asked by the CSF investigator why he was asking for \$19,000 from the CSF when he had earlier claimed only \$3500, Johansen said that nothing had been repaid and the entire \$19,000 was due. A few days later, Johansen complained about having to provide information that he had already given to DCO and requested that his claim be reassigned to a different investigator. At the same time, he sent a note on which he showed his claim amount of \$19,080, less \$10,600, for a "New & Increased [sic] Balance" of \$8,480. He provided no further explanation of his accounting.

Attachments: Johansen Request for Review
Investigator Report
Investigator Report Exhibits

³ In October 2008 the bar filed formal charges against Oh (Oh I) involving his representation of two clients. Although Oh communicated with Disciplinary Counsel's Office at first, at some point he stopped. He defaulted on the formal complaint and in February 2009 he was suspended for eight months. A second formal disciplinary complaint involving complaints by Johansen and several other clients was filed in June 2009 (Oh II). Oh defaulted again and in February 2010, the trial panel ordered him disbarred. Oh filed a timely notice of appeal but didn't file a brief. The matter is currently pending before the Supreme Court.

Oregon State Bar
Oregon State Bar Board of Governors
16037 S.W. Upper Boones Ferry Road,
P.O. Box 231935
Tigard, Oregon 97281-1935

RECEIVED

FEB 02 2011

Oregon State Bar
Executive Director

Request for Review

RE: John H. Oh, Client Security Fund Claim No. 2010-39

Attention: Teresa Schmid,

My time in responding to your denial of this situation is just as important to me as yours is to you.

This is what I would expect from the governing board and as a member of OSB, to protect one of your own regardless of the circumstances by which they use their position of power as an Attorney in the State of Oregon is to fleece, thief, and steal from those less fortunate than they, who work all of their lives to accumulate something of value, while they (Attorney's) have not done a thing to earn anything of the kind (my respect included) but they (Attorney's) have lied to me as a client, as a person, and as a legitimate citizen of this country (such as it is).

Does it not seem strange that both you and Sylvia Stevens have the same job description as "Executive Director." I do when I cannot get directed to the correct person in the first place? Who is in charge up there anyway?

Your denial of my claim through your own Client Security Fund Rule 4.10.1 by your committee (?) is erroneous.

These are your rules (of conduct) governing your Attorneys and not mine.

You have all of this information in your possession (both now and before) as I have sent it to you and you do have John H. Oh's disbarment proceedings, for which I do not have. So to reiterate and re-litigate this mess over and over again not knowing whom I am speaking with, who has the authority to make a fair judgment in this matter, who can be addressed to make an impartial, non-bigoted, non-prejudicial ruling regarding John H. Oh as one of your outstanding Attorneys at Law is difficult for me to take. John H. Oh need's to grow up, face his responsibilities, have some moral's about himself, quit taking advantage of others and face the facts.

I do believe that through this letter, its length in it's entirety, the misconceptions, misquotes in both (by your staff), my letter's to Lynn Davis, the fiasco with Jane Angus, the misdirected efforts of Sylvia Stevens all lead to the validity of this claim. Someone is protecting John H, Oh with all of the authority of OSB.

I quote from the Client Security Fund Rules approved February 19, 2006 that states...That this ruling as applied to your own rules as it clearly states that under 1.3 that if the "Lawyer" which means one who, at the time of the act or acts complained of was an active member of the Oregon Stat Bar and maintained an office for the practice of law in Oregon (and John H, Oh was and did so before he ran out of town), 1.4 "Client" (me) means the individual, partnership, corporation, or other entity who, at the time of the act or acts complained of, had an established attorney-client relationship with the lawyer (and I did), 1.5 "Claimant" (me) means the one who files a claim with the Fund (which I did), 1.6 "Dishonest conduct" means a lawyer's willful act against a client's interest by defalcation, by embezzlement, or by other wrongful taking (which John H. Oh did and has done)...a loss of money or other property of a lawyer's client is eligible for reimbursement if 2.1 the claim is made by the injured client or the client's conservator, personal representative, guardian ad litem, trustee, or attorney in fact (I do believe that John H, Oh is and or was an Attorney [?]), 2.2 the loss was caused by the lawyers dishonest conduct (and it was), 2.2.1 (ii) a lawyer's wrongful failure to maintain the advance payment in a lawyer trust account until earned (of which John H. Oh did fail), 2.2.3 Reimbursement of a legal fee will be allowed only if (i)the lawyer provided no legal services to the client in the engagement (Jane Angus asked Bill Schireman if he had sent any such claimed files to him at which time the answer was a firm and resounding "No"), (iii) the claim is supported by a determination of a court, a fee arbitration panel, or an accounting acceptable to the Committee that establishes that the client is owed a refund of a legal fee (you have the contracts both of which state 2nd revised contract and subsequently 3rd revised contract, copies of both I have sent you before and am again sending them to you), 2.5 the loss arose from, and was because of: 2.5.1 and established lawyer-client relationship, or 2.5.2 the failure to account for money or property entrusted to a lawyer in connection with the lawyer's practice of law or while acting as a fiduciary in a matter to the lawyer's practice of law (or according to Lynn Davis of OSB, to fund his own personal "Gambling" problem and practices), 2.7 A good faith effort has been made by the claimant (me) to collect the amount claimed to no avail (before John H. Oh skipped out of town this attempt was made and Lynn Davis was made aware of it at the time as well as through our correspondence), 2.6 The claim was filed with the Bar within two years of the latest of the following (a) the date of the lawyers conviction (being disbarred is a conviction...is it not), (c) the date of judgment is obtained against the lawyer (which it was and is) or (d) the date the claimant knew or should have known, in the exercise of reasonable diligence, of the loss (I pursued John H. Oh in "Good Faith" as he was packing to leave town [unknown to me at the time] and my next conversation was with Lynn Davis). In no event shall any claim against the Fund be considered for reimbursement if it is submitted more that six (6) years after the date of loss (I filed this claim with a timely manner and have had to deal with your people who do not and will not put forth the effort to deal with this effectively).

And the list goes on and on and on. I have done everything expected of me to try and resolve this matter, to try and stop this actor from doing this again, and to hold him

responsible for his past actions. These are your rules and if you do not want to abide them then I feel very sorry for all of us (a current copy is also attached for your reading enjoyment).

This does look differently when your cited rule through the Client Security Fund Rule 4.10.1 is put back into context with all of the other's doesn't it? You should be ashamed of yourselves for taking it out of context (it is just like reading the Bible). These are your rules.

At one time I held Attorneys to a much higher standard than the rest of us poor souls, but after all of this and seeing how you would rather protect one of your own wrong doers rather than admit that they have done any wrong at all, makes me have to reevaluate my respect for your profession, the people that you choose to deal (honestly???) with, and the caliber of those who are entered into your company.

It is my point that if John Oh is an example of what it is to be in Attorney in this State with all of the practices (malpractice or otherwise) that he is entitled to through OSB for his own personal protection and gain, then it seems to be a win-win situation for him.

If there are not any penalties to pay for mis-representation the fact that he entered into a Client/Attorney relationship with me in borrowing these funds in the first place, if you, Lynn Davis (who entered my name and claim into the records at OSB for these funds), if Sylvia Stevens who questioned me repeatedly (defending John H. Oh and Jane Angus and who would not tell me who was in charge of this investigation (?) when I asked her repeatedly for the person who was in charge of the "Board"[?] of inquiry and I now find out that it is you when she could have told me this in the 1st place) and who after speaking with Jane Angus (who gave a very distracting and one sided interview over the phone that I hope was recorded, if not then I would not believe a word of what she put in her one sided report, even after speaking with my Attorney here in Medford, Oregon, Bill Schireman, an outstanding Attorney that we need more of) regarding the same incident (copy of my complaint as to her handling of this matter is attached for your review...unedited), then what is the purpose of OSB in the first place. This I would like to know. Is it to protect Attorneys in this state or is it to protect the general populace from Attorney's that prey on them. The answer to all of this in all good conscience goes along with the old saying of "Attorney's, who would need them if God didn't invent them" and I would like to have an answer to this.

I work, I work hard, and why I have to address and readdress this matter over and over again is beyond me. If you cannot see that I have been wronged here then there is certainly something wrong with the morals of this country, the legal system in this State, the character of those that you let into legal practice here, and our so called "Great Society" to begin with.

This is and was theft under the guise of an Attorney, John H Oh, contacting one of his wealthy clients for a loan (me). As stated Lynn to Davis (at OSB) who told me at the end of his disbarment (of John H. Oh) that he was not my Attorney and that I would have to file a separate claim against John H. Oh for reimbursement of these fund's (that he, Lynn Davis gave me the correct forms, advised me to file them with OSB and also sent a letter stating that he was not my Attorney, all of this after including me in the original proceedings against John H. Oh...what a Catch 22 situation this has turned out to be) , which I did in a timely manner and still I find that OSB wants to protect and disallow any wrong doing regarding John H. Oh. This seems as if it is a part of this ring of conspiracy protecting John H. Oh and continuing to allow this type of practice in your institution.

What ever happened to "Professional Responsibility," an ethics course that I do believe all Attorneys are required to take while they are in law school. Is this something that they just nod their heads at, sleep through, and then go about their own business as prim-a-donnas and fleece the public, or do they actually learn something out and from it? I would like to know.

John H. Oh is a very un-ethical person whom I would be ashamed to state that he somehow got past the Bar exam and is allowed to practice his type or law in this state at all.

This is out and out "Theft" by one John H. Oh, an Attorney (?) that you can have the responsibility and pleasure of calling one of your own. This is and was not an improvement loan, and it never was. It is and was not a business loan, and it never was. It is not a personal loan and it never was. This is not a home improvement loan or any other type of loan, and it never was.

This is theft in the course of John H. Oh as an Attorney at Law and in the course of his duties and his position in the State of Oregon by which OSB is allowing this type of behavior to continue. I wonder what the State Attorney General would think of all of this.

Why does your letter to me this last correspondence have a date on the top of it @ December, 9, 2010 and in the body of this past letter (copy attached for your review) have a date of January 22, 2011. There does seem to be a lapse in these dates by over a month. It is my point that if you as a governing agency concluded this matter in December of 2010 than why do I have to respond within 20 days from the January 2011 date when this was postmarked January 27, 2011 and received on 29 January, 2011. This is absurd and ridiculous.

It would seem that not only are you trying to protect John H. Oh in his wrong doing but that you may be trying to cease me from responding in a timely manner through your lack of prompt mailing. This does make it very difficult on me to be able to meet your deadline and lines.

This is a situation of the right to want justice...so "Police" your own to prevent this type of un-professional (or if acceptable to you...professional) behavior in the future. I am not afraid. I have taken a righteous stand. You have the capability and contingency to bring this matter and issue to closure and to be completed in a manner suitable for the public if you want to. If you do not, then this is a specific matter that needs to be addressed by those who will take a stand.

As I speak my mind, this shakes my confidence in the "Rule of Law." This is a situation of the right to want justice so Police your own.

I work for a living, I am not an Attorney, I can sleep at night, look myself in a mirror in the morning, and I can hold my head high as I walk down the street. I do not steal from others, I do not lie, I do not abuse my position, or anything else.

What ever happened to your "Personal Liability Fund?" This is a personal liability that shakes the confidence of anyone who has had any contact with any Attorney whatsoever.

Perhaps "Integrity" in the State of Oregon through OSB is just a pipe dream huh? And in an all revealing moment there are a lot of questions that I would like to have answers to.

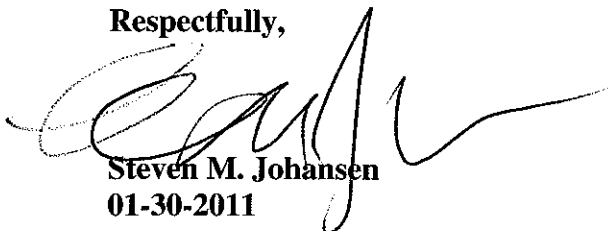
So it would seem that as I am led around by the nose and no-one wants to take responsibility for this matter that John H. Oh escapes through the aid of OSB.

I am so very tired of all of this garbage, but I will not ever give up.

Unedited, but mailed to you courtesy of snail-mail and hopefully you have not changed any of the three (3) dates that are on your last letter spanning 2010 and 2011.

This is a very timely response.

Respectfully,



Steven M. Johansen
01-30-2011

CLIENT SECURITY FUND INVESTIGATION REPORT

DATE: January 12, 2011

RE: CSF Claim No. 2010-39
Attorney: John H. Oh, OSB No. 000888
Status: Suspended; Trial Panel Opinion Disbarring and
Form B Pending before Supreme Court

Claimant: Steven Johansen

INVESTIGATOR: Jane E. Angus

RECOMMENDATION

Recommend that the claim not be paid.

SUMMARY OF CLAIM AND INVESTIGATION

Steven Johansen seeks the Client Security Fund's ("CSF") payment of loans he made to John Oh. Johansen's original CSF claim (filed December 8, 2010) identified the loss as \$15,000. In early January 2011, he increased the reported loss to \$19,080. Following a January 5, 2011 telephone interview by the CSF investigator, Johansen revised the claim to \$8,480. Issues: (1) whether the alleged loss arose from and was because of an established lawyer client relationship; (2) whether the loss was the result of Oh's dishonesty; and (3) the amount of the loss.

According to information Johansen submitted to the Client Assistance Office and Disciplinary Counsel's Office (long before he submitted the CSF claim), Oh repaid all loans, except for \$3,000 (plus interest on that amount). Johansen told the CSF investigator that he had not received any payments from Oh and the entire \$19,080 is owed. When the CSF investigator questioned Johansen about the discrepancy, he stated that disciplinary counsel must have misunderstood. The CSF investigator also asked Johansen about statements he made in documents submitted with his CSF claim that conflicted with his claim that he had not received any payments. Johansen claimed no knowledge about them, and stated that he might have received some payments, but he did not recall. A few days after the CSF investigator's interview, Johansen revised his CSF claim again. Johansen reported payments of \$10,600, leaving an alleged \$8,480 unpaid loan balance.

In 2002, Steven Johansen hired the Bartoloni law firm to assist him with immigration petitions for his new wife and her children. Oh was an associate with the firm and was assigned the case. Johansen paid the Bartoloni firm for these services. In May 2002, Oh filed the necessary petitions, which were approved.

Johansen's marriage did not last long. About the end of 2003, Johansen asked Oh to assist him in getting a passport for his daughter Sofia, who was living abroad with his then ex-

wife.¹ Oh told Johansen that he was leaving the Bartoloni law firm to start his own practice. Johansen chose to follow Oh.

About January 30, 2004, Johansen retained Oh to undertake his daughter's passport matter. On February 10, 2004, pursuant to a written fee agreement, Johansen paid Oh a \$500 flat fee, earned on receipt, for the legal services. Oh told Johansen that he needed money to pay his malpractice insurance, and on February 19, 2004, pursuant to an oral agreement, Johansen loaned \$5,000 to Oh. In May 2004, Oh filed Sofia's application.

At Johansen's request, about November 4, 2004, Oh sent a copy of his file (containing the completed applications and supporting documents that had previously been submitted to the immigration authority) concerning Johansen's ex-wife and her children to William Schireman, an attorney who represented Johansen concerning dissolution issues. The file material was sent to Schireman only for information. Schireman's practice is limited to family law. Schireman did not undertake to represent Johansen or his ex-wife concerning any immigration matter.

Oh asked Johansen for an additional \$5,000 loan, promising to repay the \$10,000 with scheduled payments at the rate of \$1,000 per month beginning in February 2005 and concluding with a \$600 interest payment in December 2005. Johansen reports that Oh again told him he needed the money for his malpractice insurance. On November 17, 2004, Johansen deposited the additional \$5,000 loan into Oh's general account.

In early February 2005, Oh asked Johansen for yet another \$5,000 loan. Johansen provided the funds about February 7, 2005. About February 9, 2005, Johansen loaned Oh an additional \$3,000, making total loans \$18,000. Johansen recently produced a February 9, 2005 letter purportedly prepared by Oh, which outlined the dates and amounts of the loans (and a payment schedule). According to a December 2006 e-mail communication from Johansen to Oh, the unpaid balance of the loans was then \$9,500, plus \$645 in interest.

Johansen contends that throughout the time he was loaning money, Oh was actively providing legal services by making sure Johansen's ex-wife kept appointments with the INS and to answer questions that arose.² It is not clear that there were any immigration issues after May 2004. Johansen is very vague.

Johansen reported to Disciplinary Counsel's Office and the CSF investigator that he relied on Oh's "integrity as a lawyer" in deciding to loan funds to him. His loans were "personal favors." He did not expect Oh to look out for his interests, and did not rely on Oh's professional judgment in making the loans or documenting the transactions.

Johansen reported that Oh was often late and failed to make payments according to the schedule. Oh made promises, but he had to be constantly prodded. The CSF investigator asked

¹ After the first divorce however, over the next few years, Johansen went on to marry and divorce the same woman two more times. Johansen's ex-wife now lives in California and they are now involved in a custody/visitation dispute.

² Johansen does not recall receiving billing statements for work Oh performed, but reports that he paid Oh's fees, often in cash. Johansen represented that he had provided the Bar with copies of all written communications he can locate.

Johansen why he continued to loan money if Oh was not repaying him according to the agreements. According to Johansen, Oh told him he needed the money for malpractice insurance; that business was going well, but without the insurance he could not continue; and if he could not continue practicing, there was no prospect of earning money to repay Johansen. Johansen felt he needed to keep Oh working to get paid so he continued to make loans. According to the PLF accounting office, Oh made installment payments for his PLF assessments in 2004, 2005 and 2006. The combined/total amount of Johansen's loans to Oh exceeds the total amount of the PLF assessments for these years.

In 2008, Oh closed his office and left town without notifying Johansen. Disciplinary Counsel's Office provided Johansen with Oh's California address and telephone number. The CSF investigator asked Johansen if he attempted to contact Oh and/or initiated a lawsuit to collect the debt. Johansen told the CSF investigator that he telephoned and left a message, but received no response; that he called a second time and the voice mail box was full; and that he had not filed suit because he did not have an address. The CSF investigator reminded Johansen that Disciplinary Counsel's Office had provided Johansen with Oh's addresses during its investigation.

In May 2008, Johansen filed a complaint with the Client Assistance Office. The matter was referred to disciplinary counsel for investigation. Although Oh sought and received extensions of time to respond to disciplinary counsel's requests, he did not provide an explanation. At the direction of the State Professional Responsibility Board, Oh was charged with failure to cooperate in violation of RPC 8.1(a). No other charges were prosecuted.

Oh's license to practice law was suspended in February 2009 for disciplinary matters; suspended in April 2009 for failure to pay PLF insurance; and suspended in July 2009 for failure to pay Bar dues. In February 2010, a Disciplinary Board trial panel filed an opinion finding that Oh had violated disciplinary rules (including multiple counts of conversion) involving 10 client matters and disbarred him. The proceeding included Oh's failure to cooperate in the investigation of the Johansen matter. The formal proceeding is pending review before the Supreme Court. In August 2010, Oh signed a Form B Resignation, which is also pending before the court. The court has not acted on the Form B resignation because Oh did not designate an active resident Oregon attorney to whom he has delivered his files and records as required by BR 12.7.

FINDINGS AND CONCLUSIONS

- (1) Johansen made loans to Oh as "personal favors."
- (2) Johansen did not rely on Oh's professional judgment in making the loans or documenting the transactions.
- (3) There existed a lawyer client relationship between Johansen and Oh at the time of the February 2004 loan. However, after May 2004, it is not clear that there was an ongoing or current lawyer client relationship.
- (4) A portion of Johansen's alleged loss consists of interest, which is not compensable by the Client Security Fund.

- (5) The alleged loss did not arise from any false promise to provide legal services in exchange for an advance payment of a legal fee, a failure to provide legal services, or a failure to maintain an advance payment in a lawyer trust account.
- (6) Oh was likely opportunistic and manipulative. However, there is insufficient evidence to establish that Oh was dishonest when he sought and obtained the loans. He stated an intention to repay them. There is some evidence that Oh repaid most of the loans.
- (7) Johansen's loss has not been clearly established, but it is likely no more than \$3,000 based on his written representations to Oh, the Client Assistance Office, and Disciplinary Counsel's Office. Johansen has made inconsistent statements concerning the claimed loss, the existence/status of the lawyer client relationship, payments, and related matters.
- (8) Johansen did not file the Client Security Fund claim within 2 years of the date he should have known of the alleged claim, although it will have been filed within 2 years of Oh's anticipated disbarment or Form B resignation.
- (9) Johansen is very angry, but he has not pursued a judgment against Oh.

JEA/

Attachments:

- February 9, 2005 letter, Oh to Johansen re summary of loans and payment schedule.
- December 7, 2006 e-mail, Johansen to Oh. Johansen represented unpaid loan balance of \$9,500, plus \$645 interest.
- May 2008 Complaint to Client Assistance Office (excerpt). Johansen represented unpaid loan balance of \$3,000, plus \$500 interest.
- Undated 2008 letter, Johansen to Oh. Johansen represented unpaid loan balance of \$3,000, plus \$500 interest (excerpt).
- 2008-2010. Johansen represented to Disciplinary Counsel's Office that Oh had repaid all loans except \$3,000, plus \$500 interest.
- December 2010 CSF Claim form. Johansen claimed \$15,000 loss (excerpt).
- January 2011 Revised CSF Claim form. Johansen claimed \$19,080 loss (excerpt).

JOHN H. OH, P.C.
ATTORNEY AT LAW
THE LAW OFFICES BUILDING
521 SW CLAY STREET, SUITE 107
PORTLAND, OREGON 97201

TELEPHONE (503) 227-3131
FACSIMILE (503) 226-1321
ohlaw@verizon.net

February 9, 2005

Mr. Steven Johansen
555 Maaike Dr.
Medford, OR 97504

**Re: 3rd Revised Repayment Plan Regarding Loan Made by
Steven Johansen to John H. Oh**

Dear Steven:

I hereby acknowledge the receipt of loans from you in the amount of Five Thousand Dollars (\$5,000) each on February 19, 2004, November 17, 2004, and February 7, 2005 and Three Thousand Dollars (\$3,000) on February 9, 2005. I agree to repay said loan (\$18,000 principle at the current 2-year CD interest rate of 3.00%) in accordance to the following schedule:

<u>Date</u>	<u>Amount</u>
5/1/05	\$1,000
6/1/05	\$1,000
7/1/05	\$1,000
8/1/05	\$1,000
9/1/05	\$1,000
10/1/05	\$1,000
11/1/05	\$1,000
12/1/05	\$1,000
1/1/06	\$1,000
2/1/06	\$1,000
3/1/06	\$1,000
4/1/06	\$1,000
5/1/06	\$1,000
6/1/06	\$1,000
7/1/06	\$1,000
8/1/06	\$1,000
9/1/06	\$1,000
10/1/06	\$1,000
<u>11/1/06</u>	<u>\$1,080</u>
Total	\$19,080

Subj: John...
Date: 12/7/2006 6:35:30 P.M. Pacific Standard Time
From: JohanGAAP
To: ohlaw@verizon.net

John,

This is a reminder of the debt that you owe me. I have been very, very, patient in this, but just as you have stated to me a while back "Collecting money from person's (people) that you have lent them is very difficult."

To date you still owe me \$9,500.00, plus the interest of \$645.00 (that you have mis-calculated).

I will hold you to our verbal agreement over the phone this afternoon in that you stated that you would double up on your payment of \$500.00 for December and make it \$1,000.00 by the end of this month (December), with \$500.00 following each and every month hereafter.

I am trying to have a family, pay my own bills here, and this is not easy. I have not worked in 3 years, and this makes it just that much more difficult on me.

Please understand me.

Steven M. Johansen

Friday, December 29, 2006 America Online: JohanGAAP

The purpose of this Letter is to address, and to report to you the unscrupulous practices, and unethical practices, by one John H. Oh, Attorney (?) at Law.

As we are all involved in this "Reality," that comes to create and present a situation to the practicing of the Law in our community, and your Profession as a whole, I am personally appalled by his behavior, and he has no right to take advantage of me as has.

John Oh has borrowed from me in the course of our relationship a total of \$13,000.00, and John Oh has failed to and refused to live up to his obligations to Honor his agreement to repay this amount back to me. In addition to the \$10,000.00 dollars (contract enclosed) that I have a written contract by John Oh he has borrowed an additional \$3,000.00 from me which he promised to repay if I would wait until the end of April for him to repay this amount plus, a \$500.00 interest payment. I agreed to do so.

As of April, 30, 2008, John Oh still owes me the sum of \$3,500.00. John Oh has been very, very, slow to repay the other part of this bill and has caused me to make numerous phone calls to him at his house, his business, and on his Cell phone. Now I cannot reach him, or anyone else at these three numbers, except his cell phone (which is in another person's name), and he will not return any of my phone calls anyway.

This man is out of "Business"...period, and I would hope that you would be able to contact him, before he goes into business again and takes advantage of someone else. Keep him out of business. He has no "Right" to take advantage of clients, and former clients as he has taken advantage of me.

Attached is an OSB printout providing his State Bar number, business phone, Fax number, and written towards the bottom of the first page his "Cell Phone" number. Perhaps you, as the regulating agency, will have a better opportunity in receiving a response from him. I am the person to whom he owes money too, he knows this, and he will not repay it to me. This is a very perplexing issue.

I had always thought that Attorneys, Doctors, Certified Public Accountants, Law Enforcement Officers (of which I am previously), were head and shoulders above the rest of society at large, but now I know better. This man is a scoundrel and nothing more that reflects upon your profession to the very utmost. I do not know how he looks at himself in the mirror without feeling shame at what he has done to me.

This should be a "Red" flag to you as an institution of self-"Policing," and regulation. It certainly is to me now. This presents an Ethical problem to you that I am sure as an Attorney who knows the implications of borrowing money from a client and a former client, and then absconding with the funds that he refuses to

repay, when he knows that he has an obligation to do so. Where is the "Integrity" in this??? I would like to know.

I have included a copy of his original contract with me (in his own E-Mail) as well as some of the work that he has done on the Immigration issue of my former wife from Kyrgyzstan through Bartoloni and Abbot, P.C.

I feel that this type of behavior by "One of yours" is very appalling. That he knew when he borrowed this money from me at the outset that this was wrong, that he had no intention of repaying it as he had promised to do, that I am the "Victim" here of his own "False" promises, and I am very appalled with your profession who would allow a weasel of this type to permeate, and dishonor your "Profession." This is unconscionable to state the least, but expose him for what he is, I shall do so.

I have phoned John Oh on numerous occasions to remind him of his obligations to repay this debt of \$3,000.00, to no avail, plus an interest payment of an additional \$500.00 if I waited until the end of April 2008, I agreed. Now I learn that this promise was a ploy to gain time, and that he has closed his practice altogether.

This has become very, very, frustrating to me as the unscrupulous behavior of a person in his position with the OSB and under your jurisdiction.

I was told by John Oh that after having a falling out with his former firm of Bartoloni and and Abott that he was going out on his own and needed this money to pay for his malpractice insurance fees.

In speaking With John Eckrem (mentioned below) I now find out that this can be paid quarterly, and that his (John Eckrem's fees) are only \$3,000.00 a year. So in effect I have been lied to, misused by an Attorney under your jurisdiction (who is not now available, or will not return m y phone calls to him), frustrated and about this and he fully understands my position here.

I have spoke to John Eckrem, a Collogue of yours and an Attorney at Law here in Medford and I have found that this is not true, and not the case. Apparently most people, "Attorneys at Law" here in Medford, Oregon, do not have the Integrity to stand alone from the rest of our society.

I had always thought that an Attorney at Law, was supposed to over and above this and these types of actions, but I now find out that they do not have the Integrity to above everyone else.

I am including a Copy of his original agreement and obligations along with this letter. He has borrowed an additional \$3,000., from me after this that he has promised to repay with interest at the current CD Bond equivalent at the point of the original agreement (which he has miscalculated also) and is now outstanding on his contract.

It is with this thought, and this thought alone that I am writing to you at the present time.

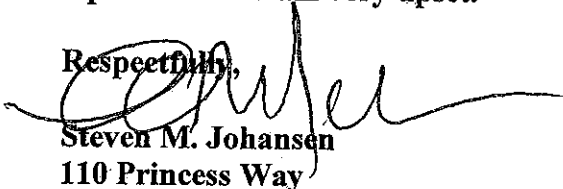
In short, in order to uphold the "Rule of Law", to do what is right and correct in rectifying this situation, I would expect that John Oh be obligated to "Honor" his commitment to repay the monies that he has borrowed from me at the correct interest rate before being able to practice "Law" again. This is the "Actual, Factual Truth."

This is a must to prevent further abuses by an "Indiscriminate," and unsavory character and individual in your midst.

I do not treat others like this in our society, and I will not be treated them in this way either. This man is a scoundrel, a weasel, an unprofessional Attorney, and a liar.

Upset??? Yes I am very upset.

Respectfully,



Steven M. Johansen
110 Princess Way
Central Point, Oregon 97502
05-27-08

John Oh,

It appears that you have moved and come to the realization that you have an ongoing “**Gambling**” problem. I do hope that you can get help for this as it has destroyed your life. You have lost the ability to practice law, your house and your family. This should be a wake-up call for you.

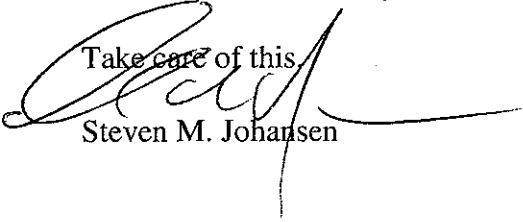
You still owe me personally **\$3,500.00** that I intend to collect. This is not to add to your current situation, but this is reality.

I often wonder how a person, a professional as yourself (?) can look at himself in the mirror knowing that he has taken advantage of those who befriended him in his time of supposed need. Perhaps you do not have a “**Conscience**.” You incurred this debt, the money out of fraudulent means and this is “**Theft by Deception**.” You can tell me that I cannot get “**Blood from a Rock**” (your words not mine) but you are not a “**Rock**.” You are a devious, cunning and unscrupulous individual whom I trusted and believed in, only to find out that you have no morals or intention of doing anything that you have stated that you will do. Evidence of this is the record that you left here in Oregon. Your unfinished business of completion of the immigration processes and status that I am sure that you are aware of. You should be ashamed of yourself.

It has taken me some time to find you, but find you I have.

You owe me \$3,500.00 from the time that you were here in Oregon processing the immigration of Elena and you know it has not been repaid. You promised to repay it if I gave you until April of 2008. I did and now you have absconded the state and fled to California.

Take care of this


Steven M. Johansen



Client Security Fund
Application for Reimbursement

RECEIVED
DEC 08 2010
OREGON STATE BAR
GENERAL COUNSEL'S OFFICE
Client Security Fund
PO Box 231935
Tigard, OR 97281-1935

PAYMENTS FROM THE CLIENT SECURITY FUND ARE ENTIRELY WITHIN THE DISCRETION OF THE OREGON STATE BAR. SUBMISSION OF THIS CLAIM DOES NOT GUARANTEE PAYMENT. THE OREGON STATE BAR IS NOT RESPONSIBLE FOR THE ACTS OF INDIVIDUAL LAWYERS.

Please note that this form and all documents and other information submitted in support of your claim are public records.

1) Full names of all persons filing this claim (first, middle, last):
Steven Marion Johansen
Street Address: 509 Golf View Drive
City, State, Zip: Medford, Oregon 97504
Phone (Work): 541-773-5053 (Home): 541-770-9281

2) What is the name, address, telephone number, and firm name (if any) of the lawyer whose conduct is alleged to have caused your loss?
Lawyer's Name: John Ch Lawyer's Telephone Number: [blank]
Lawyer's Firm Name: SELF
Lawyer's Address: [blank] - Attached on letters & forms

3) What is the amount of your loss? \$ 15,000.00
Describe in detail how you calculated that amount (if the loss was property, include appraisal, receipts, or other evidence of value):
Amount Borrowed to Pay for his malpractice insurance - Documented & Attached. That I owe fund is to pay his Gambling Debt.

4) Please describe what the lawyer did that was dishonest and how it caused your loss.
Use a separate sheet if necessary. Your claim will not be accepted if this question is not answered.

Documentation Attached - This is a Client Attorney Relationship where John Ch used his Professional Standing as an Attorney to leverage his Strength and Position to obtain funds from me.

5) (a) When did your loss occur? (insert date) Attached Documents
(b) When did you discover the loss? (insert date) When he skipped out of Town

6) (a) Was the lawyer named in Question 2 hired to represent you? [X] Yes [] No
(b) If Yes, give the approximate date you hired the lawyer: Immigration Court for my wife to be able to come to this country
(c) If No, describe your relationship to the lawyer: From Eugene Oregon (OSR)

7(a) What did you hire the lawyer to do? fraudulently represented himself Documents Attached

(b) What was your agreement for payment of fees to the lawyer? (Attach copy of any written agreement)

I paid him in full anytime

(c) How much has been paid so far? All of it - check his 4 year records

(d) Did anyone else pay the lawyer to represent you? Yes No

If yes, give the name, address and telephone number of that person and explain the circumstances:

(e) What services did the lawyer actually perform?

Immigration

(f) Did you hire another lawyer to finish any of the work? Yes No

If yes, please provide the name and telephone number of the lawyer

8) Was there at any time a family, personal, business or other relationship between you and the lawyer?

Yes No If Yes, explain: Borrowed money from me as a personal favor to him in a Client/Attorney Relationship

9) (a) Has demand for repayment been made of the lawyer? Yes No

(b) Amount demanded: \$1500⁰⁰

(c) Date(s) when demand was made: ongoing - check Documents

(d) Who made the demand? Myself

(e) Demand was oral, written. (If it was written, attach a copy of the demand to this application.)

Copies Attached of Documented Proof

10) (a) Has the lawyer (or any other person) ever admitted that he/she owes you money or agreed to reimburse you? Yes No

(b) If Yes, please explain:

John Oh owes me money promised to repay and left town without honoring his obligations

11) (a) Describe what you have done to recover your loss:

(b) Have you sued the lawyer? Yes No

(c) Have you obtained a judgment? Yes No

(d) If yes, in what amount? nil

(e) Have you made any other claim against the lawyer or the lawyer's assets

(such as insurance claims, arbitration claims, etc.)? Yes No

(f) Have you made attempts to locate assets and/or recover on a judgment? Yes No

(g) If yes to any of the above, attach copies of all related documents. If no, please explain

This is where I am filing the Client Security Fund Application for reimbursement - with you.

12) (a) Have you been reimbursed for any part of your claim? Yes No

(b) If Yes, who paid you and how much did you receive?

13)(a) Is there any insurance, indemnity or bond which might cover your loss? Yes No

(b) If Yes, what is the name and address of the insurance company? _____

14) (a) This loss has been reported to (check all that apply):

District Attorney,

Police,

Oregon State Bar Professional Liability Fund, - *Proseutly Filed*

Oregon State Bar Disciplinary Counsel *Lynn Davis*

(b) Explain action taken, and attach a copy of your complaint, if available:

Refer Doc's - Disbarred Attorney John as mentioned by Lynn Davis.

15) (a) Please identify any other person who may have information about this claim:

Name *Lynn Davis* Phone _____

Address *OSB* _____

(b) Nature of the information this person can provide:

Verification of Documents Sent between him (Lynn Davis) and myself (Steven M. Johansen)

16) Agreement and Understanding

The claimant agrees that, in exchange for any payment made by the Client Security Fund (CSF), the claimant will:

(a) Transfer to the CSF any rights the claimant may have against the lawyer or any other person or entity who may be liable, up to the full amount of the CSF's payment;

(b) Authorize the CSF to pursue any claims against the lawyer and any other person or entity who may be liable, either in the name of the CSF or in the name of the claimant, as the CSF deems appropriate;

(c) Cooperate with the CSF in its efforts to recover its payments;

(d) Notify the CSF if the claimant receives any payment from the lawyer or from any other person or entity with regard to the loss for which this claim is made;

(e) Reimburse the CSF if the claimant recovers any portion of the loss from the lawyer or any other person or entity.

17) Claimant's Authorization

Release of Files: I hereby authorize the release to the OSB Client Security Fund, upon request, of any records or files relating to the representation of me by the lawyer named in Question 2.

Payment to Third Party: (This section must be completed if you answered yes to Question 7(d) or if you wish to have payment delivered to someone else for any reason.) I hereby authorize the OSB Client Security Fund to pay all amounts awarded to me to:

Name: *Steven M. Johansen*

Address: *589 Golf View Drive*

Signature: *Medford, Oregon 97504*

[Handwritten Signature]

rec'd GCO
12/20/10



Client Security Fund Application for Reimbursement

Return completed form to:
Oregon State Bar
Client Security Fund
PO Box 231935
Tigard, OR 97281-1935

PAYMENTS FROM THE CLIENT SECURITY FUND ARE ENTIRELY WITHIN THE DISCRETION OF THE OREGON STATE BAR. SUBMISSION OF THIS CLAIM DOES NOT GUARANTEE PAYMENT. THE OREGON STATE BAR IS NOT RESPONSIBLE FOR THE ACTS OF INDIVIDUAL LAWYERS.

Please note that this form and all documents and other information submitted in support of your claim are public records.

1) Full names of all persons filing this claim (first, middle, last):
Staver Marion Johnson
Street Address: 589 Golf View Drive
City, State, Zip: Medford, Oregon 97504
Phone (Work): (541) 773-5053 (Home): (541) 770-9281

2) What is the name, address, telephone number, and firm name (if any) of the lawyer whose conduct is alleged to have caused your loss?
Lawyer's Name: John C. [unclear] Lawyer's Telephone Number: [unclear]
Lawyer's Firm Name: S&S (?) [unclear]
Lawyer's Address: Unit Southern California

3) What is the amount of your loss? \$ 19,080⁰⁰
Describe in detail how you calculated that amount (if the loss was property, include appraisal, receipts, or other evidence of value):
It is on the Enclosed Contract with his calculated amount (should be @ 6%) on his letter head sent to me via email

4) Please describe what the lawyer did that was dishonest and how it caused your loss.
Use a separate sheet if necessary. Your claim will not be accepted if this question is not answered.
Client Attorney Relationship when we borrowed said money from me to pay for his malpractice insurance. (Actually this is a malpractice issue) Never repaid it upon continuous efforts to collect.

5) (a) When did your loss occur? (insert date) Beginning in 2005
(b) When did you discover the loss? (insert date) Never lived to his promise to repay

6) (a) Was the lawyer named in Question 2 hired to represent you? Yes No
(b) If Yes, give the approximate date you hired the lawyer: 2003 for Transition work
(c) If No, describe your relationship to the lawyer: None

House Road
& Direct to
a New ??

Investigator
Gen

$$\begin{array}{r} 19,080 \text{ } \underline{\underline{00}} \\ - 10,600 \\ \hline 8,480 \text{ } \underline{\underline{00}} \end{array}$$

↙
New & Increased
Taxes

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: February 18, 2011
Memo Date: February 7, 2011
From: Chris Kent, Chair, Budget & Finance Committee
Re: Change in OSB Investment Policy

Action Recommended

Approve the change of the OSB bylaw 7.402 to include the amendments approved by the Budget & Finance Committee.

Background

At its January 7, 2011 meeting, the Budget & Finance Committee met with representatives of Washington Trust Bank who had recommended changes to the bar's investment policy to include strategies that it believed were compliant with the bar's policy and added more diversity to the portfolio. The bank representatives explained the rationale for the market neutral strategy and stated it already uses specific mutual funds for other clients for the small cap international equities and the emerging market fixed income classes proposed by the bank. In each case, the investment would not exceed 2-1/2% to 3% of the total portfolio.

The Committee resolved to approve the Small Capitalization International Equities and the Emerging Markets Fixed Income as investment classes in the bar's investment policy. The Committee did not approve other recommendations of the bank including the use of the Goldman Sachs Hi-Yield Fund as an investment option and that the bar's policy add "Investment in Securities with a rating of A- or lower shall be limited to 10% of the account's value."

Bylaw subsection 7.402 with the recommended changes (underlined and in red) follow this memo.

Subsection 7.402 Approved Investments

Investments will be limited to the following obligations and subject to the portfolio limitations as to issuer:

- (a) The State of Oregon Local Government Investment Pool (LGIP) no percentage limit for this issuer.
- (b) U.S. Treasury obligations - no percentage limitation for this issuer.
- (c) Federal Agency Obligations - each issuer is limited to \$250,000, but not to exceed 25 percent of total invested assets.
- (d) U.S. Corporate Bond or Note - each issuer limited to \$100,000.
- (e) Commercial Paper - each issuer limited to \$100,000.
- (f) Mutual funds that commingle one or more of the approved types of investments.
- (g) Mutual funds of U.S. and foreign equities and not including individual stock ownership.
- (h) Federal deposit insurance corporation insured accounts.
- (i) Individual publicly-traded stocks excluding margin transactions, short sales, and derivatives.
- (j) Small capitalization international equities.
- (K) Emerging markets fixed income.

Security	Minimum credit quality
Interest bearing deposits of banks, savings and loans and credit unions	The issuing financial institution must be rated "well capitalized" as defined by the financial institution's regulator. Those that are not "well capitalized" will be limited by the level of their deposit insurance.
Obligations issued or guaranteed by U.S., local, city and state governments and agencies	A-/A3 as defined by Standard & Poor's and Moody's
Money Market Funds	The issuing financial institution must be rated "well capitalized" as defined by the financial institution's regulator. Those that are not "well capitalized" will be limited by the level of their deposit insurance.
Money Market Mutual Funds	The issuing financial institution must be rated "well capitalized" as defined by the financial institution's regulator. Those that are not "well capitalized" will be limited by the level of their deposit insurance.
Obligations issued or guaranteed by the U.S. Federal government	Not applicable
Obligations issued or guaranteed by U.S. Federal agencies	AAA/AAA as defined by Standard & Poor's and Moody's
Obligations issued or guaranteed by U.S. government-sponsored enterprises	AAA/AAA as defined by Standard & Poor's and Moody's
Obligations issued or guaranteed by local, city and state governments and agencies.	A-/A3 as defined by Standard & Poor's and Moody's
Obligations of U.S. corporations	A-/A3 as defined by Standard & Poor's and Moody's

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: February 18, 2011
Memo Date: February 7, 2011
From: Chris Kent, Chair, Budget & Finance Committee
Re: Update on Leases and Tenants at the Bar Center

Action Recommended

1. Ratify the execution of the Lease Termination Agreement signed by OSB President Steve Piucci and PLF Executive Director Ira Zarov.
2. Engage Macadam Forbes as brokers for leasing the vacant space at the bar center.
3. Any recommendations for development of the vacant space at the bar center.

Background

On December 10, Tom Parsons, the Senior VP of Opus NW in Seattle met with Sylvia Stevens and Rod Wegener to share the unfortunate, but not surprising news that beginning with the January 2011 rent payments, Opus would no longer make its rent payments, and further to see what can be done to terminate the agreement with the bar. Essentially Opus NW is "owned" by US Bank and Opus NW is operating now just to sell its assets. Mr. Parsons believed it would take 18 months to sell the last of the assets and when that is done Opus NW will cease to exist.

That meeting followed with a series of letters and negotiations to terminate the agreement between the bar and Opus.

Summary of the Master Lease with Opus NW

As part of the original agreement when the bar center was built, Opus would lease from the bar all space not rented to third parties. This lease with Opus covers 6,606 rentable square feet (r.s.f.) of vacant, undeveloped space through January 26, 2013. Opus pays the bar about \$175,000 a year for this space. Zip Realty occupies 2,052 r.s.f. of that space in a sublease with Opus. Its annual rent is \$49,000. Once the master lease with Opus is to expire, the Zip lease is to be assigned to the bar. Also, if the vacant space (now about 4,600 rsf) is not leased by the end of the master lease Opus owes the bar \$15.00 per r.s.f. in tenant improvement costs (\$68,310).

Another condition of the original agreement with Opus is that Opus will assume the payments of the lease of the former PLF offices on Meadows Road after the PLF moved into the new bar center. That cost to Opus was factored into the cost of the new building. However, Shorenstein (the owner of the building PLF occupied) stated the lease must remain with the PLF, so the PLF continues to make the rent payments to Shorenstein and Opus reimbursed the PLF. PLF still has the obligation on its former space on SW Meadows to Shorenstein through

July 31, 2011. The former PLF space was subleased to three tenants with the sublease stating the subtenants make their rent payments directly to Opus. In turn, the bar's lease with the PLF states that the bar is obligated to pay the amount of any rent not reimbursed to the PLF. With Opus no longer making that reimbursement to the PLF, the bar is liable for \$52,080 a month through July 31 of this year. Unfortunately the monthly rent of the three subtenants is only \$36,780 for a negative cash flow to the bar of \$15,300 a month.

Another condition of the master lease states the bar will use the management services of Opus' former facilities management company through the term of the master lease. After the sale of the building to the bar, Opus sold that company to NorthMarq. Part of that sale was that if the master lease with Opus terminates, the facilities management agreement ends. Annually that cost to the bar is about \$55,000. When this terminates the bar takes responsibility for all accounting, rent collection, and payment of expenses of the building as well as the common expenses of buildings B and C of Fanno Creek Place, and assumes the direct responsibility of dealing with all providers of services to the buildings.

What the Bar Did

Bar officers, bar and PLF staff, and David Weiner met the week after the December 10 meeting to identify the bar's options. In anticipation of the formal termination and to assure the rent revenue was flowing to the bar the bar made these contacts in December:

- Zip Realty and the three subtenants at the former PLF offices received certified letters informing them of Opus repudiating the leases or agreement and telling them to send their monthly payments to the Bar. (The bar collected three of the payments in January.)
- The bar informed NorthMarq it is terminating the facilities management agreement effective January 31, 2011.
- A letter was sent to the bar's lender informing it of the circumstances.

On December 15, the bar received a copy of a Wind Down Agreement from Lighthouse Management Group. In the cover letter, Lighthouse offered \$92,558.50 as a payout to the bar to terminate the lease with Opus. After numerous back-and-forth negotiations, the bar agreed to the terms of the Lease Termination Agreement which was signed by Steve Piucci and Ira Zarov. (The agreement will be available at the meeting or upon earlier request.) The bar will receive \$210,000 under the terms of the agreement. The amount the bar receives consists of:

Negotiated amount for current and future rent	\$142,429.79
Half of the TI allowance the bar was to receive in 2013	35,155.00
Security deposits to be returned to 3 tenants	<u>33,415.21</u>
Total	<u>\$210,000.00</u>

Hopefully, by the date of the board meeting Opus will have signed the agreement and sent the funds to the bar.

Exhibit A following this memo indicates the impact of the termination of the lease with Opus through January 2013 is a net loss of \$151,000. (Note: the black text is revenue or cost savings to the bar; the red is lost revenue or new expenditures for the bar).

Non Paying Tenant

RMT International is one of the three tenants subleasing the former PLF office space. During the negotiation with Lighthouse, it was reported that RMT had not made a rent payment since May 2010. The monthly rent payments are \$8,476.00. It is unknown what if any efforts Opus NW tried to collect the payments. RMT paid a \$25,428 security deposit which Opus is retaining, and for which the bar has to obligation at the end of the lease.

RMT received two letters from the bar – the first one all tenants received stating to pay the bar and not Opus NW, and the second in late January, indicating the payment is late and instruction to pay. This lease expires July 31 and the bar is to collect \$59,332 during 2011.

The Lease Termination agreement states "ONW (Opus Northwest) and PLF shall have independent claims against RMT for the amounts due each party." The bar has begun eviction proceedings on RMT in its efforts to collect on the rent due in 2011. Any funds collected from RMT will reduce the \$151,000 loss noted earlier.

20/20 Space

Unrelated to the Opus issues, 20/20 closed its business at the bar center in summer 2010, but has continued to make its monthly lease payments. That lease for 6,016 r.s.f. expires November 2013.

20/20 has engaged Macadam Forbes to sublease its space and as of the date of this memo, one party is seriously looking at the space. However, that tenant requires only about two-thirds of the 20/20 space. The advantage to the bar of a sublease is that it provides cash flow to 20/20 to offset part of its obligation to the bar and maintains a tenant beyond the expiration of the 20/20 lease. However, it does leave the bar with trying to lease 1,500 to 2,000 s.f. in not the most desirable location in the building and probably involved with tenant improvement costs.

Future Direction of Vacant Space at the Bar Center

The vacancies have allowed bar staff to ponder the allocation of tenant and bar-occupied space on the first and third floor. After three years in the building, it is reckoned that the Admissions and Lawyer Referral Departments are not best suited for the first floor, since they seldom have walk-in visitors, but often visitors to the building come to their offices seeking the receptionist or other bar offices. Additionally, the first floor space is surmised to be more attractive to an unrelated tenant due to its visibility, and the third floor space is difficult to design for a tenant because of its square size and limited window access.

There has been discussion about the bar developing the vacant 2,058 s.f. on the first floor as offices for attorneys and other professionals to rent on a short-term basis. The bar

would be responsible for TI costs and it is expected that at least six offices could be carved from the space. If the bar hoped to recover those costs and have a favorable return on the space, the bar would need to generate about \$4,000 in rent monthly.

To consider various space allocation options, the bar has contacted a space designer to develop space allocation ideas and options. The planner was instructed to design the vacant space on the first floor for offices to rent on a short-term basis and to design the space on the third floor for Admissions and Lawyer Referral. It is expected the designs will be available by the committee meeting dates to share with the Budget & Finance Committee. Since the vacant space on the first and third floor is unfinished (except for ceiling tile and light fixtures stored in the space), the bar would bear the cost of the tenant improvements. If the design plans are available, a cost estimate will accompany the design.

Renting the Vacant Space at the Bar Center

Based on the relationship with the bar and the knowledge of the bar center space, bar staff recommend that the bar execute an agreement with Macadam Forbes as the listing agent to find tenants for the vacant space at the bar center.

Summary of Space Available for Rent

- Current Status:

First Floor	2,058 r.s.f. of undeveloped space (in original Master Lease with Opus)
First Floor	2,052 r.s.f. leased to Zip Realty at \$4,007 per month (in original Master Lease with Opus)
First Floor	6,015 r.s.f. leased to 20/20 at \$15,422 per month
Third Floor	2,496 r.s.f. of undeveloped space (in original Master Lease with Opus)
Total space available for rent – 12,621 r.s.f. (18.4% of the bar center)	

The space for which the bar is receiving no revenue after the Lease Termination - 4,554 r.s.f. (2,058 + 2,496 r.s.f.)

- If Admissions and Lawyer Referral move to undeveloped space on the Third Floor:

Admissions space – approximately 1,105 s.f.
Lawyer Referral space – approximately 981 s.f.
Total space – 2,086 s.f. (not rentable square feet)

Impact of Opus NW Repudiation - At Wind Down Agreement Date

Month 2011/Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	2012	2013	2014
Revenue																
Rent Payments																
Zip Realty	4,007	4,007	4,007	4,127	4,127	4,127	4,127	4,127	4,127	4,127	4,127	4,127	49,164	50,640	4,251	(A)
Microfield	21,203	21,203	21,203	21,203	21,203	21,203	21,203						148,421			
Hayden Properties	7,101	7,101	7,101	7,101	7,101	7,101	7,101						49,707			
RMT International (D)	0	0	0	0	0	0	0						0			
Opus NW Payout		210,000											210,000			
Total Revenue													457,292	50,640	4,251	0
New Expenditures																
Reimburse PLF (C)	52,080	52,080	52,080	52,080	52,080	52,080	52,080						364,560			
Microfield Deposit								17,557					17,557			
Hayden Prop Deposit								7,101					7,101			
RMT Intl Deposit								0					0			
Zip Realty Deposit													0			(B)
Total Expenditures													389,218	0	0	0
Lost Revenue																
Opus NW	14,588	14,588	14,588	14,588	14,588	14,588	14,588	14,588	14,588	14,588	14,588	14,588	175,056	175,056	14,588	
Half Opus TI Allowance															34,155	
Total Lost Revenue													175,056	175,056	48,743	0
Saved Expenditures																
Facilities Mgmt Agrmnt		4,375	4,375	4,375	4,375	4,375	4,375	4,375	4,375	4,375	4,375	4,375	48,125	49,569	4,131	
Total Saved Expend													48,125	49,569	4,131	0
Net Cash Flow to OSB													(58,857)	(74,847)	(40,361)	0

Add back amount already in OSB 2011 Budget for excess operating expenses at former PLF premises 22,970
Total Gain/(Loss) on Opus NW Default thru Scheduled Expiration of Lease, Jan. 26, 2013 **(151,095)**

Notes:

- (A) Zip Realty lease expires July 15, 2014
- (B) Zip Realty lease security deposit is \$8,747.02.
- (C) Includes \$3,281.43 (\$22,970 total) already in OSB 2011 budget for excess operating expenses
- (D) RMT monthly lease payment is \$8,476.00, but not paid since May 2010.

2/7/2011

EXECUTIVE DIRECTOR
EMPLOYMENT AGREEMENT

1. PARTIES. The parties to this Agreement are Oregon State Bar, PO Box 231935, Tigard, OR 97291-1935 ("OSB" or "Bar") and Sylvia E. Stevens, 1500 SW 11th Avenue, #303, Portland, OR 97201 ("Executive Director").

2. NATURE OF EMPLOYMENT; DUTIES. The Bar hereby employs Sylvia E. Stevens as Executive Director on the terms and conditions set forth in this Agreement to perform the duties and carry out the responsibilities of the Executive Director in accordance with ORS Chapter 9, the OSB Bylaws and policies, the Executive Director's job description and the direction of the OSB Board of Governors ("Board"). The Executive Director shall devote her principal time, attention and energy to the business of the OSB and shall not engage in any other remunerated business activity except with the express consent of the Board.

3. TERM. This initial term of this Agreement shall be from August 16, 2010 until December 31, 2012. The Agreement shall renew thereafter for additional one year terms unless terminated by either party.

4. COMPENSATION AND BENEFITS.

(a) *Salary.* The Executive Director shall receive an annual salary paid in bi-weekly installments or otherwise in accordance with OSB policy. The salary will be \$175,000 during the first year of this Agreement and shall increase thereafter annually in an amount determined between the Executive Director and the Board, but by not less than the percentage increase granted to other OSB staff.

(b) *Benefits.* The Executive Director is eligible to participate in all benefit programs available to OSB employees including, without limitation, health, disability and life insurance; the Oregon Public Employees Retirement System; and the Oregon Savings Growth Plan or other deferred compensation plan.

(c) *Vacation, Sick and Other Leave.* The Executive Director shall be entitled to paid vacation, sick and other paid leaves on the same basis as other OSB employees of the same tenure.

(d) *Professional Dues.* The Bar shall pay the Executive Director's membership fees in the OSB, the American Bar Association, the Multnomah Bar Association and any other

professional organization reasonably related to the fulfillment of her responsibilities as Executive Director.

5. EXPENSES. The Bar shall provide the Executive Director with an office and support staff as necessary for the discharge of her duties. The Bar will pay or reimburse the Executive Director for all ordinary necessary expenses incurred in the performance of her duties under this Agreement and in accordance with the policies and budget approved by the Board including, without limitation, mileage at the IRS rate.

6. EVALUATION. The Board shall evaluate and assess the performance of the Executive Director annually on or before December 1. The Executive Director shall receive a written summary of the evaluation with any recommendations and goals for the coming year.

7. TERMINATION.

(a) *By the Executive Director.* The Executive Director may terminate this Agreement at any time upon giving the Board, through its President, written notice not less than ninety (90) days prior to the date of the termination.

(b) *By the Bar (Without Cause).* The Bar may terminate this Agreement without cause at any time and without notice. If that event, the Bar will pay the Executive Director an amount equal to her net salary (after required and voluntary deductions) for the remainder of the existing term of the Agreement. The Bar will also pay the required COBRA premiums to continue health insurance coverage for the Executive Director and her spouse for the remainder of the Agreement term.

(c) *By the Bar (With Cause).* The Bar may terminate this agreement for cause at any time by delivering to the Executive Director a written notice specifying the cause or causes for the termination. The termination will be effective thirty (30) days after delivery of the notice, and the Bar may suspend the Executive Director with pay during the any or all of the period prior to the effective date of the termination. For purposes of this Agreement, "cause" means conviction of a crime, dishonesty or other gross misconduct seriously prejudicial to the interests of the Bar.

(d) *Notice of Retirement.* Notwithstanding paragraph 7(a), the Executive Director will to the extent feasible provide the Board, through its President, with as much notice as possible (at least six months), in writing, of her planned retirement date.

8. INDEMNIFICATION. To the extent permitted by law, the Bar shall indemnify, defend and hold harmless the Executive Director and her heirs, administrators or executors and each of

them, from any and all claims and causes of action of any kind, nature or description, including judgment principal, interest, costs and attorney fees, and all other reasonable costs and expenses and charges which they or any of them shall at any time hereafter sustain or incur or become subject to by reason of any claim against the Executive Director arising or resulting from her conduct in carrying out the her duties under this Agreement, except for gross negligence, willful misconduct or criminal acts of omissions, and provided further that the Executive Director, her heirs, administrators, executors or any of them promptly notifies the Bar of adverse claims or threatened or actual lawsuits. terms and conditions of this Agreement. In such event, the Executive Director, her heirs, administrators or executors, as appropriate, shall provide complete cooperation to the Bar, its attorneys and agents in such case to the extent possible.

9. DISPUTE RESOLUTION. Any dispute relating to this Agreement, excluding claims covered by worker's compensation insurance, shall be submitted first to mediation with the Arbitration Service of Portland, Inc. or United States Arbitration and Mediation of Oregon, at the option of the filing party. If mediation is not successful, the dispute shall be decided by final and binding arbitration utilizing a single arbitrator. The award of the arbitration may be enforced in any court having jurisdiction. All costs of mediation and arbitration including filing fees and mediator and arbitrator's fees shall be paid by the Bar.

10. ATTORNEY FEES. The prevailing party in any arbitration and subsequent proceedings to enforce the award of the arbitrator as a judgment shall be entitled to recover reasonably attorney fees incurred in preparation or in the prosecution or defense of the arbitration or proceeding as fixed by the arbitrator or the trial court, and if any appeal is taken from the decision of the trial court, reasonable attorney fees fixed by the appellate court.

11. VENUE. This Agreement has been made entirely within the State of Oregon and shall be governed by and construed in accordance with the law of the State of Oregon.

12. ENTIRE AGREEMENT; AMENDMENT; BINDING EFFECT. This Agreement is the entire understanding of the parties and it may be amended only in a writing signed by both parties. This Agreement is binding on and inures to the benefit of the parties and their respective heirs, successors and assigns.

13. WAIVER; SEVERABILITY. A provision of this Agreement may be waived only in a writing by the party waiving compliance. No waiver of any provision of this Agreement shall constitute a waiver of any other provision, nor shall any waiver constitute a continuing waiver. Failure to enforce any provision shall not operate as a waiver of such provision or any other provision. If any provision of this Agreement shall be invalid or unenforceable for any reason, the validity

and enforceability of such provision in any other respect and of the remaining provisions of this Agreement shall not be in any way impaired.

OREGON STATE BAR

EXECUTIVE DIRECTOR

By: _____
Kathleen Evans, President

Sylvia E. Stevens

Dated: _____

Dated: _____

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(b) *Benefits.* The Executive Director is eligible to participate in all benefit programs available to OSB employees including, without limitation, health, disability and life insurance; the Oregon Public Employees Retirement System; and the Oregon Savings Growth Plan or other deferred compensation plan.

(c) *Vacation, Sick and Other Leave.* The Executive Director shall be entitled to paid vacation, sick and other paid leaves on the same basis as other OSB employees of the same tenure.

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9. DISPUTE RESOLUTION. Any dispute relating to this Agreement, excluding claims covered by worker's compensation insurance, shall be submitted first to mediation with the Arbitration Service of Portland, Inc. or United States Arbitration and Mediation of Oregon, at the option of the filing party. If mediation is not successful, the dispute shall be decided by final and binding arbitration utilizing a single arbitrator. The award of the arbitration may be enforced in any court having jurisdiction. All costs of mediation and arbitration including filing fees and mediator and arbitrator's fees shall be paid by the Bar.

10. ATTORNEY FEES. The prevailing party in any arbitration and subsequent proceedings to enforce the award of the arbitrator as a judgment shall be entitled to recover reasonably attorney fees incurred in preparation or in the prosecution or defense of the arbitration or proceeding as fixed by the arbitrator or the trial court, and if any appeal is taken from the decision of the trial court, reasonable attorney fees fixed by the appellate court.

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OREGON STATE BAR

EXECUTIVE DIRECTOR

By: _____
Kathleen Evans, President

Sylvia E. Stevens

Dated: _____

Dated: _____

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: February 18, 2011
From: Mitzi Naucler, Chair, Policy & Governance Committee
Re: Complimentary CLE for Active Pro Bono Members

Action Recommended

Consider the recommendation of the Policy & Governance committee that Active Pro Bono members receive one annual complimentary admission to OSB continuing legal education seminars.

Background

An OSB member recently inquired whether the bar would make a limited number of CLE's available at no (or low) cost to members on Active Pro Bono status.

Active Pro Bono members pay dues equivalent to inactive members, and are permitted to practice law only in connection with a certified pro bono program or as volunteers in the OSB disciplinary system. They receive the *Bulletin* and enjoy the other benefits of active membership, including the right to serve on OSB committees and on section executive committees, and to vote in HOD and BOG elections. The only difference between Active Pro Bono and "regular" Active status is the allowable scope of practice, as described above.

The CLE Seminars Director reports Active Pro Bono attendance at OSB seminars is scant and that offering complimentary admission would not have a significant impact on program revenue.

The issue for the committee is whether, as a matter of policy, the bar should make CLE seminars available at no cost or at a discount to this category of members.

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: February 18, 2011
From: Mitzi Naucler, Policy & Governance Committee Chair
Re: ONLD Bylaw Changes

Action Recommended

Approve revisions to the Oregon New Lawyers Division bylaws to incorporate changes made to the bar regions, ensure uniformity of terms and make modifications to various dates.

Background

The ONLD bylaws were last updated in November 2005, since that time the bar has made changes to its bylaws and region configuration. In addition to better aligning the ONLD bylaws with OSB practices, the proposed bylaw changes also clarify terms used throughout the document.

In accordance with ONLD bylaw 11.2, Division members approved the proposed bylaw amendments during the Division's annual meeting on November 12, 2010. The Policy & Governance Committee considered the changes on January 7, 2011 and urges their adoption.

Attachment: ONLD Bylaws with Proposed Changes

Article 1.
Name, Purpose and Fiscal Year

1.1 Name.

The name of this organization shall be the New Lawyers Division (“Division”) of the Oregon State Bar (“Bbar”).

1.2 Purposes.

The purposes of the Division shall be to encourage new lawyers to participate in the activities of the Bbar, to conduct programs of value to new lawyers and law students, to promote public awareness of and access to the legal system, and to promote professionalism among new lawyers in Oregon.

1.3 Public Office.

The Division shall not participate in or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office.

1.4 Fiscal Year.

The fiscal year of the Division shall coincide with the fiscal year of the Bbar.

1.5 Bar Policies.

The Division shall comply with the policies of the Board of Governors of the Bbar that apply to sections, except as otherwise provided in these bylaws.

Article 2.
Membership and Dues

2.1 Members.

Each member of the Bbar shall be eligible to be a member of the Division until the last day of the Division’s fiscal year in which such member attains the age of thirty-six (36) years or until the last day of the sixth full fiscal year in which any such member has been admitted to practice in this state, whichever is later. All eligible members of the Bbar shall automatically be members of the Division unless and until membership dues are assessed under this Article, in which case all eligible members of the Bbar who pay membership dues shall be members of the Division.

2.2 Associate Members.

Any law student presently attending an ABA accredited law school in Oregon shall automatically be considered an associate member of the Division without payment of dues. Individual students at other ABA accredited schools shall be associate members upon written request.

2.3 Dues.

Membership dues may be set by the membership of the Division at the annual meeting of the Division, subject to subsequent approval of the Board of Governors. Membership dues shall not be prorated for any portion of a year. The Division may establish free or discounted membership rates for new admittees or for attorneys with incomes below a specified level. If assessed, membership dues shall be collected annually by the Bbar with Bbar membership fees.

2.4 Associate Member Participation in Division Business.

Associate members may not serve as voting members of the Executive Committee and may not vote at Division meetings. However, they may serve on any Division Standing Committee or Special Committee.

Article 3.
Division Executive Committee

3.1 Composition.

The Executive Committee shall be composed of eleven Division members. There shall be one Executive Committee position for each of the following six regions.

Region 1:

Baker, Crook, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco and Wheeler Counties.

Region 2:

Lane County.

Region 3:

Coos, Curry, Douglas, Jackson, ~~Benton, Lincoln, Linn~~ and Josephine Counties.

Region 4:

~~Benton~~, Clatsop, Columbia, ~~Lincoln, Polk~~, Tillamook, Washington and ~~Yamhill~~ Counties.

Region 5:

Multnomah County.

Region 6:

Clackamas, ~~Linn Polk, Yamhill~~ and Marion Counties.

The remaining five Executive Committee members shall be elected at-large by the Division membership. In addition, the past Chairperson shall serve as a non voting member of the Executive Committee, whether or not he or she falls within the membership criteria of Article 2.

3.2 Duties.

The Executive Committee shall supervise and control the affairs of the Division subject to these bylaws and the bylaws and policies of the Board of Governors of the ~~B~~ar.

3.3 Majority Vote, Quorum.

Action of the Executive Committee shall be by majority vote. A quorum consisting of a majority of the Executive Committee, not including the past chairperson, shall be required to conduct its business.

3.4 Meetings.

The Chairperson may, and upon the request of three members of the Executive Committee shall, call meetings of the Executive Committee.

3.5 Action Between Meetings.

Between meetings of the Division, the Executive Committee shall have full power to do and perform all acts and functions that the Division itself might perform. The Executive Committee shall provide a summary of such actions at the next meeting of the Division membership.

3.6 Membership Votes.

The Executive Committee may direct that a matter be submitted to the members of the Division for a vote by mail, electronic vote or for a vote at any Division meeting.

3.7 Compensation.

No salary or compensation for services shall be paid to any member of the Executive Committee or member of any other committee with the exception of the Editor and other staff of a Division newsletter (if applicable). Reimbursement may be allowed for travel and other out-of-pocket expenses for members of the Executive Committee and members of all Division standing and special committees.

3.8 Removal.

Executive Committee members missing two consecutive Executive Committee meetings or three of eight consecutive Executive Committee meetings may be removed from office by majority vote of the Executive Committee members. Executive Committee members who are suspended from membership in the Oregon State Bar may be removed at any time during the period of suspension by a two-thirds majority of the Executive Committee members or by a two-thirds majority of members voting at the Division's annual business meeting.

3.9 Rescission.

The membership of the Division shall have the right to rescind or modify any action or decision by the Executive Committee, except for filling a vacancy in the position of Officer or Executive Committee member, and also may instruct the Executive Committee as to future action. The Executive Committee shall be bound by any such action of the membership. The right of the membership to direct, modify, or rescind an act of the Executive Committee shall not include power to invalidate contracts or payments previously made under direction of the Executive Committee. Any vote to direct, modify, or rescind an action of the Executive Committee must be taken at a meeting at which two-thirds of members present vote in favor of the Motion.

Article 4. Officers

4.1 Composition.

The officers of the Division shall be a Chairperson, a Chairperson-Elect, a Secretary, a Treasurer and such other officers as may be determined to be necessary by the membership. The officers shall be elected from among the Executive Committee members.

4.2 Chairperson.

The Chairperson, or the Chairperson-Elect in the absence of the Chairperson, shall preside at all meetings of the Division and of the Executive Committee. The Chairperson shall appoint the officers and members of all committees of the Division pursuant to Article 7; plan and monitor the programs of the Division; keep the Executive Committee duly informed and carry out its decisions; and perform such other duties as may be designated by the Executive Committee. The Chair shall serve as an ex-officio delegate to the Oregon State Bar House of Delegates.

4.3 Chairperson-Elect.

The Chairperson-Elect shall aid the Chairperson in the performance of his or her responsibilities, and shall perform such further duties as may be designated by the Executive Committee. In the event of the death, disability, or resignation of the Chairperson, the Chairperson-Elect shall perform the duties of the Chairperson for the remainder of the Chairperson's term or disability. The Chairperson-Elect shall automatically become the Chairperson immediately following the annual election of officers.

4.4 Secretary.

The Secretary shall ~~retain and~~ maintain all books, papers, documents and other property pertaining to the work of the Division, and shall keep a true record of proceedings of all meetings of the Division and of the Executive Committee. Typed minutes of all meetings of the Division and of the Executive Committee shall be ~~mailed~~distributed to all members of the Executive Committee as soon as possible but no later than fourteen (14) days (excluding weekends and holidays) after the meeting and shall be subject to amendment and approval at the next Executive Committee Meeting. In addition, the Chairperson or Secretary shall, whenever possible, ~~mail~~distribute notice of scheduled Executive Committee meetings to all Executive Committee members at least ten

(10) days (excluding weekends and holidays) prior to such meeting. The Secretary shall perform other such duties as designated by the Executive Committee. Minutes and agendas ~~mailed~~distributed to Executive Committee Members shall be contemporaneously provided to the ~~B~~bar.

4.5 Treasurer.

The Treasurer, shall keep an accurate record of all receipts and expenditures approved by the Division; report on the Division's present and projected financial condition at each meeting of the Division Executive Committee; prepare, ~~in conjunction with the bar staff administrator,~~ an annual projected budget for approval by the Executive Committee; and submit a report of the Division's financial affairs and financial condition to the members at the Division annual business meeting. The budget shall then be submitted to the Board of Governors for its approval no later than ~~October~~November 15. The treasurer shall submit any requests for general Bar funding to the Board of Governors no later than ~~June 1~~September 30 of the year prior to the fiscal year for which such funds are requested..

Article 5. Meetings

5.1 Open Meetings.

The Division (including meetings of the Executive Committee) is subject to the Public Meetings Law. Therefore, the ~~B~~bar shall be notified twenty (20) days in advance (excluding weekends and holidays) of Division meetings. If 20 days' notice is not practical, notice shall be given as soon as possible. Reasonable notice shall be given to Division members of all Division meetings.

5.2 Meeting.

Each year there shall be at least one membership meeting for the purpose of conducting Division business, which meeting shall be known as the Division annual business meeting. The Division annual business meeting may be held in conjunction with the annual meeting of the ~~B~~bar at a time and place to be coordinated with the ~~B~~bar's Executive Director, or on any other date no later than ~~October~~November 15.

5.3 Special Meetings.

Special meetings of the Division may be scheduled from time to time by the Executive Committee.

5.4 Action.

Action at a meeting of the Division membership shall be by a majority of those members present and voting. At least six members who maintain offices in at least three different regions must be present to establish a quorum at a meeting of the Division membership.

5.5 Floor vote.

During the meetings described in the preceding two paragraphs, the Division membership at large may call any matter to the floor upon the vote of the majority of the members who are present.

5.6 Rules.

Except as otherwise provided herein, all meetings of the Division shall be conducted in accordance with the then current version of Roberts Rules of Order.

Article 6. Terms In Office And Elections

6.1 Limitation on Executive Committee Membership.

No member may be elected or appointed to serve on the Executive Committee for more than six years, except that a member who first serves an unexpired term of one year or less shall be eligible for election or appointment to two full three year terms.

6.2 Term.

Each term of office shall begin immediately following election to the Executive Committee. Members of the Executive Committee shall serve three-year terms. The terms of office shall be staggered so that approximately one-third of the positions are up for election each year, as outlined below:

Positions 1 and 2 (Region 1 and 2)

Terms expire: ~~1994, 1997, 2000, 2003~~, 2006, 2009, 2012, 2015, 2018, 2021

Positions 3 and 4 (Region 3 and 4)

Terms expire: ~~1993, 1996, 1999, 2002, 2005~~, 2008, 2011, 2014, 2017, 2020

Positions 5 and 6 (Region 5 and 6)

Terms expire: ~~1995, 1998, 2001, 2004~~, 2007, 2010, 2013, 2016, 2019, 2022

Positions 7 and 8 (At Large)

Terms expire: ~~1993, 1996, 1999, 2002, 2005~~, 2008, 2011, 2014, 2017, 2020

Positions 9 and 10 (At Large)

Terms expire: ~~1994, 1997, 2000, 2003~~, 2006, 2009, 2012, 2015, 2018, 2021

Position 11 (At Large)

Term expires: ~~1995, 1998, 2001, 2004~~, 2007, 2010, 2013, 2016, 2019, 2022

6.3 Vacancies.

Except as provided by Article 4.3, the Executive Committee shall fill by appointment any officer or Executive Committee position that becomes vacant. However, if said vacancy exists at the time of the annual meeting, it shall be filled by election.

6.4 Unexpired Term.

Any officer or Executive Committee member appointed to fill an unexpired term shall serve the unexpired period.

6.5 Eligibility for Executive Committee Membership.

No person shall be eligible for election or appointment to the Executive Committee unless that person is a member of the Division at the time of the election or appointment.

6.5.1 Effect of Article 2.1.

The fact that a person will not be eligible under Article 2.1 to remain a Division member for the entire term of office does not preclude that person from being appointed or elected to the Executive Committee. However, that person's term will automatically be deemed vacant at the annual meeting which immediately precedes the end of that member's eligibility for Division membership.

6.5.2 Regional Requirements.

At the time of election or appointment to a Regional position, the member's principal office must be in that region, but subsequent moves during that term of office shall not result in disqualification.

6.6 Eligibility for Officers.

When elected, all officers must be Executive Committee Members who are eligible for Division membership through the entire term of office. In the case of the eChairperson elect, the person selected must be eligible to remain a member of the Division through the eChairperson-elect's term of office, and through his or her term as chairperson. However, a person may be selected for the eChair-elect position even though his or her term as an Executive Committee member will expire before the end of the term as eChairperson. He or she shall automatically be deemed to have been re-elected to the Executive Committee until the term as Chairperson ends, at which time the unexpired portion of the three-year Executive Committee term will be filled in accordance with Article 6.3.

6.7 Terms for Officers.

The term for each officer position shall be one year. The Chairperson-Elect shall automatically succeed to the office of Chairperson. No officer shall serve two successive terms in the same office, except the Treasurer, who may serve no more than two successive terms in office. Partial terms of office shall not be taken into account for purposes of the preceding sentence. No person shall simultaneously hold two offices for a period exceeding four months.

6.8 Nominating Committee.

At least ninety (90) days prior to the Division's annual business meeting, the Executive Committee shall appoint a nominating committee of not less than three ~~B~~bar members. The ~~e~~Chairperson and one other Executive Committee member shall serve on the nominating committee, with preference given to those Executive Committee members who have served the longest on the Executive Committee. Those persons who accept a position on the nominating committee are ineligible for nomination to a new term or position for the upcoming year. The nominating committee shall make and report to the Executive Committee at least forty-five (45) days prior to the Division's annual business meeting one nomination for each Division position to be filled by election. The nominating committee's proposed slate of candidates for Executive Committee positions shall be submitted to the membership unless rejected by a majority of the Executive Committee. If the slate or a portion of it is rejected, the Executive Committee shall, at least 30 days prior to the election date, formulate the slate with the assistance of the nominating committee. The nominating committee's proposed slate of officers shall automatically be submitted to the newly elected Executive Committee for its approval or rejection.

6.9 Diversity.

The nominating committee shall use reasonable efforts to nominate members who reflect a reasonable cross section of the Division's membership taking into account all relevant factors including, without limitation, the practice area, geographic, age, ~~sexual~~gender and ~~racial~~ethnic make-up of the Division membership. To the extent possible, no more than one person from the same law firm, company or public agency in the same department may serve on the Executive Committee at the same time.

6.10 Notice.

The report of the nominating committee shall be ~~mailed~~ communicated to the Division membership along with the notice of the time and place of the election at least fourteen (14) days (excluding holidays and weekends) in advance of such election. The ~~mailing~~notice may be consolidated with other ~~mailings~~communications of the ~~B~~bar or its sections so long as the ~~mailing~~notice is reasonably calculated to reach all Division members prior to the election.

6.11 Election of Executive Committee Members.

Elections shall be conducted at the Division's annual meeting, ~~or~~ by mail, or electronically.

6.12 Election of Executive Committee Members at Annual Meeting.

If elections are conducted at the Division's annual meeting, additional nominations may be made for any position from the floor. Elections for contested positions may be by written ballot or voice vote. Each contested position shall be set forth and voted upon separately. Elections shall be by plurality. All Division members may vote for all "at large" positions. For any given regional vacancy, only those Division members who maintain their principal office in that region may vote, with any ties to be broken by a plurality vote of the entire Division membership.

6.13 Election of Executive Committee Members by Mail or Electronically.

Upon approval of the Executive Committee, elections of Executive Committee members may be by written or electronic ballot ~~mailed sent~~ to the Division membership provided ~~that~~ the process ~~provides~~allows: (1) for write-in votes, (2) that ballots are returned to an appropriate Division officer for tabulation and (3) that the results are certified to the Bar Center no later than ~~October~~November 15. ~~If mail ballots are used, voting candidacy~~ for each regional representative to the Executive Committee shall be limited to those members who maintain their principal office in that region.

6.14 Election of Officers.

Officers shall be elected by a majority vote of the Executive Committee immediately ~~after~~prior to the annual election of Executive Committee Members and ratified at the Division Annual Meeting.

Article 7. Committees

7.1 Standing Committees.

The Executive Committee may establish as many standing committees as it deems necessary and may set the names, functions, and length of service of those committees. The Chairperson of the Executive Committee, with the approval of the Executive Committee, shall appoint the ~~e~~Chairperson and members of the standing committees.

7.2 Other Committees.

In addition to the standing committees as provided above, the Executive Committee may appoint as many special committees for particular purposes as the Division Executive Committee deems necessary and may set the name, function, and length of service of those committees. The Chairperson, with the approval of the Executive Committee, shall appoint the chairperson and members of all special committees.

Article 8. Representation Of The Oregon State Bar's Position

8.1 Approval Required.

Except as provided below, the Division shall not present to the legislature, or any committee or agency thereof, a position or proposal on any bill or express any position of the Division without the majority approval of the Executive Committee and the approval of the Board of Governors. If the Division's Legislative Committee requests the Executive Committee to take a position on a bill, and if it is reasonably necessary to act prior to the next regularly scheduled Executive Committee meeting, the officers of the Executive Committee may act upon the request. At least three officers shall be required to establish a quorum to take such action. Any one officer shall have the power to reject a proposed position and refer the matter instead to the Executive Committee.

8.2 Bar Approval Process.

During regular legislative sessions the Executive Committee may, by majority vote, tentatively approve a position on a bill if that position is consistent with the purposes of the Division. Rather than initiating legislation, the Division will have the ability with this process to object or defend bills already introduced or surfacing to the attention of the Division with minimal notice.

The proposed position shall be submitted to the ~~B~~bar's Public Affairs Director or the ~~e~~Chairperson of the Board of Governors' Public Affairs Committee. After receipt of the proposal, the person to whom notice was given shall have up to 72 hours to notify the Division either (a) that the position is approved or (b) that the position is being submitted to the Public Affairs Committee for approval. If such notice is not given within 72 hours, or if the position is approved, it then becomes an official position of the Division and representatives of the Division may testify or make other appropriate statements. The ~~B~~bar's Public Affairs Director shall be kept informed about the status of such positions and related activities.

If the proposal is referred to the Public Affairs Committee, it shall determine, on behalf of the Board of Governors, whether or not it is in the best interests of the entire ~~B~~bar (1) for the ~~B~~bar to take an official position or (2) to allow the Division to take a position as requested.

Article 9.
Receipts And Expenditures

9.1 Dues.

Membership dues shall be collected by the ~~B~~bar and any other receipts of the Division shall be remitted promptly to the ~~B~~bar and placed in an account designated for use by the Division.

9.2 Assessments.

The ~~B~~bar may regularly assess the Division an amount of money to cover both direct and indirect costs of Division activities performed by ~~B~~bar staff.

9.3 Expenditures.

Expenditure of the balance of Division funds after such assessment shall be as determined by the Executive Committee, to be disbursed by the ~~B~~bar's Executive Director, or the Director's designee, solely as authorized in writing by the Division's Treasurer using forms and following procedures established by the Executive Director. If the Treasurer is unavailable for authorization, the Division Chairperson may authorize disbursement of Division funds followed by written notice of the action taken. Any reimbursement of expenses incurred by the Treasurer or by the Treasurer's firm must be authorized in writing by the Division's ~~e~~Chairperson. Expenditure of Division funds shall not be in excess of the available Division fund balance, nor shall expenditures be in violation of laws or policies generally applicable to the ~~B~~bar.

9.4 Retention of Funds.

Division annual reserves, if any, shall be set and maintained as provided for in the Division's annual budget as approved by the Board of Governors.

Article 10.
Minutes And Reports

10.1 Minutes.

Minutes shall be kept of all meetings of the Executive Committee and of the Division and a copy of the minutes of each such meeting shall be promptly delivered to the ~~B~~bar's Executive Director ~~or ONLD staff administrator~~ and to each member of the Executive Committee within fourteen (14) days (excluding weekends and holidays) of the meeting so recorded.

10.2 Request for BOG Action.

Whenever the Division desires to request action by the Board of Governors, the requested action shall be reflected in the minutes and shall in addition be set forth in a letter accompanying the minutes and delivered to the Board of Governors in care of the Executive Director. If the vote on the requested action is not unanimous, the votes for and against shall be set forth in the minutes and the dissenting members shall be afforded the opportunity to explain their positions.

10.3 Report.

Not later than ~~June~~~~December~~ 1, the Chairperson shall file with the Bar's Executive Director a concise report summarizing the activities of the current year and anticipated activities for the ensuing year, together with the full text of any proposed legislation. The report shall contain a description of the budget and expenditures for that year as well as the proposed budget for the next year. This information will be summarized by ~~B~~bar staff and included with the ~~B~~bar Annual Reports distributed to all active members each year.

10.4 Budget.

A proposed annual budget and proposed annual dues shall be provided to the Executive Director for approval by the Board of Governors no later than ~~October 15th~~~~September 30th~~ of the preceding year if it contains a proposal for charging membership dues. ~~For fiscal year 1994, and f~~For any ~~other~~ year in which ~~any~~ funds are requested from the

Bar's general funds, a proposed annual budget shall be submitted to the Board of Governors no later than ~~June~~September 430th of the preceding year.

10.5 In Person Report.

~~An annual in person report shall be made to the Board of Governors or to the Board of Governors Committee on Sections by the Division Chairperson concerning the activities of the Division for the current and succeeding years. The Chair or Chair-elect, in so much as possible, will attend Board of Governor meetings to make a report on Division activities and programs.~~

Article 11.
Amendments To Bylaws

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11.1 Amendments by BOG.

These bylaws may be amended by the Board of Governors. Notice of intent to so promulgate and pass bylaw amendments shall be given to the Executive Committee in sufficient time to allow review and comment. Bylaw amendments so passed by the Board of Governors become effective upon passage.

11.2 Amendments by Division.

These bylaws may be amended by the Division by majority vote ~~through mail~~by ballot, or at any membership meeting of the Division by majority vote of the members present and voting, to become effective upon subsequent approval of the Board of Governors. Notice of intent to amend bylaws shall be publicized in a manner which is calculated to provide Division members with reasonable notice and opportunity to comment before the Division acts. Determination as to what notice is reasonable under any provision of these bylaws may take the cost of notification into account.

OREGON STATE BAR

Policy & Governance Committee Agenda

Meeting Date: February 17, 2011
Memo Date: February 1, 2011
From: Denise Cline, MCLE Program Manager
Re: Proposal to amend Rule 5.2 and Regulation 5.100

Action Recommended

Review and approve the amendments to MCLE Rule 5.2 and Regulation 5.100.

Background

With the inception of the New Lawyer Mentoring Program (NLMP), the MCLE Rules and Regulations should be amended to allow for credit for this type of activity. The proposed amendments are set forth below:

MCLE Rule 5.2 Other CLE Activities

(f) New Lawyer Mentoring Program (NLMP).

(1) Mentors may earn CLE credit for serving as a mentor in the Oregon State Bar's New Lawyer Mentoring Program.

(2) New lawyers who have completed the NLMP may be awarded CLE credits to be used in their first three-year reporting period.

(f) (g) A member seeking credit for any of the activities described in Rule 5.2 must submit a written application on the form designated by the MCLE Administrator for Other CLE Activities.

MCLE Regulation 5.100 Other CLE Activities

5.100 Other CLE Activities. The application procedure for accreditation of Other CLE Activities shall be in accordance with MCLE Rule 5.2 and Regulation 4.300.

(c) Members who serve as mentors in the Oregon State Bar's New Lawyer Mentoring Program (NLMP) may earn eight credits, including two ethics credits, upon completion of the plan year. If another lawyer assists with the mentoring, the credits must be apportioned between them.

(d) Upon successful completion of the NLMP, new lawyers may earn six general/practical skills credits to be used in their first three-year reporting period.

Oregon State Bar
Urban/Rural
Task Force Report

Fall 2010

Oregon State Bar
Urban/Rural Task Force Report

Introduction

The Oregon State Bar as we know it was created in 1935. Since inception, members outside of Portland have raised the question of whether they had the same access to OSB services and benefits as their urban colleagues. While nearly half the membership resides outside the Portland Metro area, by far the highest concentration of lawyers practice within that relatively small geographic boundary.

As a result, there is a belief that the most highly valued services of the bar are only available in Portland and Tigard. These include CLE seminars and other events that bring the members together for professional development and networking. We know that in fact, leadership opportunities with sections, committees, boards, and task forces - arguably the real work of the bar - typically go to Portland-area members. While the governance structure, including the HOD and BOG, are believed to provide geographic representation, the reality is that rural members and their perspective are little represented in leadership and decision-making.

In 2009 The Board of Governors created an Urban/Rural Task Force to consider how best to unify the bar membership, make access to networking and seminars easier, and to incorporate the views of the "rest of the bar" into the thinking at the bar offices. The task force and its subcommittees met throughout late 2009 and 2010. This report constitutes the final report of the task force.

Task Force Participants

Board of Governors member Ann Fisher was appointed to Chair the Task Force. The following participants were appointed as members. Some members served limited roles while others were active in subcommittee work throughout the year. Anyone who wanted to participate was encouraged to do so.

Megan Anmand	Medford
Kimberly Boswell	Hillsboro
Christopher Linton Burford	Pendleton
Deidra Cherzan	Bend
Steven Cordill	LaGrande
Kittee Custer	Pendleton
Shawn Dickey	Portland
James Dole	Grants Pass
Stephen Ellis	Burns
Stephen Finlayson	Burns
Tim Gerking	Medford
Janice Hazel	Portland
Tim Helfrich	Ontario
Penelope Wadsorth McCarthy	Newport
Steven McCarthy	Independence
Thomas Melville	Gresham
Phil Nelson	Beaverton
Timothy O'Hanlon	Pendleton
Milo Pope	Baker City
R. Tim Willis	Corvallis
Damien Yervasi	Baker City

Charge of the Task Force

In a general sense, the task force was charged with identifying barriers that non-Portland members confront in engaging fully with the OSB, including taking advantage of the services the bar offers, and offering their own leadership and input into bar activities and decisions.

It should be noted that early in discussion, members concluded that the issue is less about “rural” members per se, as cities like Medford, Bend, and Pendleton, for instance, are hardly rural in nature, and more about the predominant role that Portland lawyers hold with respect to leadership, perspectives, and decisions. Thus, while the Task Force name did not change, this report will refer to Non-Portland Metro Members (NPMMs) for discussion purposes.

Additional charges and objectives that the task force focused on included:

- Identifying what services NPMMs consider less available to them than to their Portland-area colleagues
- Identifying the barriers NPMMs face in availing themselves of those services.
- Assessing representation of NPMMs on various leadership and governance groups.
- Identifying challenges for NPMMs to fully participate in bar workgroups and/or governance groups.
- Analyzing technological solutions and costs.
- Assessing structure of HOD and some solutions for making input more accessible to NPMMs.
- Crafting recommendations related to all of the above for BOG consideration.

Task Force Process

The Task Force met four times in 2009/2010, all via conference call, including one call in which it sampled web-cam technology for meeting purposes. The Task Force additionally identified three subcommittees, which each made independent contributions for the final report.

Task Force Meetings

The meetings largely focused first on identifying a broad array of concerns, and then narrowing those issues into several categories based upon which was the greatest concern to practitioners, and which were areas that the Task Force members thought there was realistic opportunity for change.

Task Force members overwhelmingly agreed on key areas where NPMMs realize less value for their OSB membership than those in the Portland area. While recognizing the geographic limitations, most felt that more could be done to accommodate and invite greater service and participation.

Survey

In June 2010, the Task Force conducted a survey to gauge the opinions of bar members who live outside the Portland tri-county areas.

Among the key findings of the survey was that there is a considerable desire among NPMs to have greater involvement in the OSB. The greatest area of "agreement" in the survey was in response to the statement that "participation in OSB leadership activities would contribute to my sense of professional satisfaction and fulfillment in my legal career." The greatest barrier to fulfilling that desire, however, was the time constraint involved in travel, followed by the expense.

A large majority of members indicated that those outside the Portland Metro area get a diminished level of benefit from the OSB services. By far the service identified as being the most important to NPMs was the quantity and variety of live CLE presentations.

The survey also indicated that few members are familiar with the House of Delegates, their own regional representatives, or the mechanisms for them to offer input to their delegates in advance of HOD meetings. Some of the open-ended comments indicate a sense that the HOD is susceptible to vocal interest groups that do not reflect the majority of the membership, and that the OSB periodically initiates examination of social or political issues outside its charter.

See documentation, attached

Summary of Task Force Issues and Recommendations

Technology

Technology is the area where Task Force members saw the most realistic possibility for tangible improvements for NPMs. The geography of the state will inevitably make it difficult to fully eliminate the challenge of NPMs to physically attend as many meetings or CLEs as their Portland colleagues. While increasing regional meetings is certainly an objective of the task force, a meeting held in Medford still does not meet the needs of a Pendleton member.

Harnessing technology, however, may enhance the experience of attending meetings remotely. The task force seeks increased use of more sophisticated video-conferencing capabilities and more partnerships with courts, law libraries, and law firms to offset associated costs. The goal should be a “go-to-meeting” or webinar option for every section, committee, or governance meeting of the OSB. Additionally, the task force believes that the Bar should offer similar remote interactive participation options for CLE seminars, including those sponsored by the bar or independently sponsored by sections or bar-related organizations.

Recommendation: Conduct a thorough analysis of available technologies, and relevant costs, with the goal of making a significant improvement in availability and quality of remote participation in both bar leadership and CLE opportunities.

Regional diversity in Bar participation.

Travel expenses related to bar participation are extremely high, and the sense of the task force is that the time and fiscal cost for NPMs is not given adequate consideration by the bar. A commitment for regional diversity would have to address numerous factors, including most notably the time lost in travel, including the billable time lost. As an example, a two-hour committee meeting might entail a 6-hour drive and two business days lost depending upon time, day of week, and location.

The task force believes that the Bar should commit to more meetings around the state for all levels of leadership activities. Although the BOG receptions have not been altogether well attended to date, it was generally thought that people did not know what they were intended to do or what they would get out of going (i.e. continued distrust of the motives).

Appointments to various committees and task forces should include a recognized rural “seat” on each appointed activity. The bar should encourage regional diversity on Section Executive Boards.

Recommendations: 1) create a “regional diversity” seat on every bar committee, task force, and working group, and strongly encourage section and other entities to follow suit. 2) explore mechanisms to make NPM participation more cost-effective/less burdensome, including compensation for mileage, reviewing the time, day, and place of meetings, and encourage Portland lawyers to attend meetings outside of Portland and Tigard.

Continuing Legal Education

CLE seminars is a primary area where NPMs feel a diminished level of service from the OSB. Most notably, this relates to fewer live CLE programs offered outside the Portland Metro area. Members also expressed a strong desire for more live CLE offerings around the state. While many NPMs view CLEs as a critical part of Bar services, they do not see that much recognition has been given to the needs of this audience, both in terms of time and place of the offerings and in terms of the subject matter of the CLEs themselves.

Considerable dissatisfaction with the price structure for CLE video replays and web streams was expressed. Task Force members, as well as survey participants, felt that replays should reflect a discounted price to reflect the difference in the quality of experience between attending a live program and watching it on tape. Respondents felt that the product's value is diminished if they are unable to interact with faculty and other practitioners, or to develop relationships with others outside of their own immediate area, and that this disparity is not recognized in the pricing. There is a continued concern that pricing structures appear to give a "better deal" to Portland lawyers, either through products such as the "season ticket," or by the relative ease of Portland lawyers to take advantage of these offers.

Respondents and Task Force members would like greater recognition of their practice areas. To illustrate, it is unlikely that a seminar on health law in Eastern Oregon would be highly attended. On the other hand, there may be interest in general practice concerns, real property, land use, energy, and water law.

Finally, prevalence of mid-week CLEs in Portland, which are nearly impossible for those outside the region, should be strongly discouraged as they contribute to the sense that NPMs are not provided the same level of access. While OSB-sponsored programs have largely eliminated mid-week CLEs, they continue to be offered at the section level, and by many law-related OSB partners. Members would like the bar to take a leadership role in moving all offerings to a Friday-Monday timeframe.

Recommendation: Direct CLE to more aggressively seek opportunities for CLEs around the state, with particular emphasis on practice areas that are more common on other regions.

Recommendation: Offer a discounted price for CLE video replays in other regions of the state.

Recommendation: Strongly discourage the planning of mid-week CLEs by sections and by bar partners.

Recognition that things are different outside of Portland

There is a pervasive belief that bar leadership does not fully understand the nature of law practice outside the Portland area. This encompasses everything from the lower salaries (hence higher impact of all bar costs) to the different nature of the average NPMMs law practice.

Salary differences are critical. NPMMs tend to make significantly less than their Portland counterparts (few make \$400 or more an hour). This is particularly relevant to the Task Force in that it makes the practical cost of many bar services higher for many NPMMs and fosters a sense of disenfranchisement because of the practical cost of participating in bar leadership is unreasonably high.

The makeup of the lawyer's practice is different, i.e., not as many specialty lawyers in Central Oregon. Much of that work tends to go to Portland lawyers with niche practices. In addition, a better education about the availability of bar services specific to NPMM's practices would be appreciated.

There is a general perception of a bias toward Portland firms. The perception is that bar leadership views Portland lawyers as more credible and therefore, more important. Part of this relates to their ability to support (through donations) various activities that NPMMs cannot afford to do. Some members believe that the relative few NPMM lawyers who receive awards reflect this bias.

There is a general perception that Bar leadership inappropriately leans toward more urban/liberal perspectives that do not reflect or encompass the perspectives of their many members outside the Portland area (which mirrors the urban/rural divide in state politics). There is a strong belief that BOG leadership and/or Portland lawyers do not understand NPMM's views related to affirmative action, diversity, legal aid, access to justice, sustainability, or lawyer referral needs (to name a few.)

To give a small example: there was some talk about requiring mandatory pro bono across the state but little talk with (non legal-aid) practitioners outside the metro areas about what needs there were and how best to meet those needs. The perception was that "Portland" was poised to impose their views on those outside the metro region without regard for their views or input. Not only did the discussions apparently miss what the needs were, but also the impact of mandatory (or even aspirational) pro bono requirements on practitioners in these areas was and is unknown.

The discussion about lawyer referral service was met in some areas with laughter since the richest clients are not paying \$300/hour so how could anyone expect referral clients to pay that kind of hourly rate. The idea about paying a referral fee was met with the same derision. The task force does not suggest that these services/projects cannot be done, but that there needs to be A LOT of outreach before the decision is announced. A trip to Pendleton is not enough – it will take contact, discussion, and repetition. The NPMMs need to feel that they were heard, participated in the decision, the decision makes sense in their area.

Recommendation: Include "regional diversity" seats at every committee or workgroup of the bar.

Recommendation: For any significant program or policy changes, require a minimum number of meetings around the state to gather input from those outside Portland Metro and engage members in those areas in the decision making to assure that the policy does not present a competitive disadvantage to them.

Discipline

Portland lawyers (not just large firm lawyers) are familiar with the rules and comfortable with how they are interpreted. The NPMs displayed a sense that “outsiders” come in and challenge what have become common regional practices and that therefore, much of what is deemed a violation by discipline is the way that the court and the members interact in particular regions. While there is no exception per se for regional differences, more must be done to understand what they are, to educate the members if the common practices are inappropriate, and to work with NPMs to recognize the issues.

Recommendation: If a standing committee is created, include in their charge a study of regional practice differences, as they relate to discipline issues.

HOD and Annual Meeting

Task Force member Tim Gerking chaired a subcommittee examining the House of Delegates, and identifying some key areas which weaken regional input into the governing body. Gerking drafted a separate memo for the task force, which speaks for itself and is included here as addendum.

Recommendation: Establish a standing committee to consider each of the Gerking recommendations and implement them wherever possible.

Recommendations and conclusions By the Chair:

As I see it, the BOG can do one of three things: dump the task force report, as has happened in the past; proceed with the Task Force issue list and appoint a standing committee (perhaps to sunset in three years) to further review and take action on these issues; or choose a few recommendations and enact them immediately.

I would oppose dumping the Task Force report. That has happened (by anecdotal evidence) at least twice before. Each time the take away is that the Bar/BOG is only willing to give lip service to what has been a problem since the Bar was formed. If anything, the failure of previous BOGs to act on these issues seems to have solidified the sense that NPMs are on their own. To the extent that leadership wants to avoid having the Bar Charter limited by folks in the legislature, it would make sense to keep the NPMs involved lest someone asserts that the Bar should only play a licensing function since that is all it does for them.

Alternatively we could choose some of the recommendations and enact them and be done with it. I do not support that approach. Several will take time to develop (i.e. technology has financial components) and others will seem to be a buy-off, e.g., “see what we did for you, now shut up.” I suspect that the best result that is sensitive to the concerns raised and which actually has the possibility of success would be to establish a standing committee and give it as a charge to work on solutions.

Just establishing the committee has value. It will say clearly that at least this BOG “gets it” and asks those people affected to participate and have the ability to influence a solution. I would envision an announcement of the committee and having staff call bar leaders in other areas and the Task Force members soliciting interest in participating. (This would put it out for discussion in the rural areas.) I would recommend an ONLD seat, and potentially a solo/small firm seat. Part of the problem with the solos/small-firm members is that they often do not have any perspective about what other issues are out there and feel that they are not heard in any event. Since so many rural practitioners are in firms of smaller size, it would make sense to give some recognition of that on the makeup of the committee. ONLD has been extremely successful in its outreach to other areas and could bring its learning into the discussion for the big bar. I would not necessarily choose a past BOG president to participate simply because some of them are perceived as having sold out to Portland interests – not to say that there are not people who were on the BOG before who would not be fantastic (Like Tim Gerking or Kathy Evans) – only that there should be sensitivity to the issue.

We support sustainability; we support diversity and affirmative action; and we support a plethora of other interests. We should also show support for meeting the needs of all members as best we can and starting to address what has been a significant problem for a long time.

OREGON STATE BAR

2010 Urban/Rural Task Force Survey

Summary of the 2010 Urban/Rural Task Force Survey Results

In June 2010, the bar conducted a survey for the Urban/Rural Task Force to gauge the opinions of bar members who live outside the Portland tri-county area. *Please note: To see more detailed results from the survey, including responses to open-ended questions, view the "Survey Responses," attached.*

Methodology and Response Rate

A random sample of 426 participants was selected from a list of all active bar members with valid email addresses that do not live in Multnomah, Washington or Clackamas counties. Although this means that some participants still live or work in cities – particularly Salem and Eugene/Springfield, it hopefully eliminated most “urban” practitioners. Participants took the survey online using a unique web link generated by Survey Monkey. We received 158 responses, for a 37% response rate.

Discussion of Survey Responses

Interest in Participation in Bar Activities

Respondents were asked their level of interest in participating in bar leadership activities and given a list of statements to agree or disagree with. The first statement (“Participation in OSB leadership activities would be useful to the success of my law practice”) led most respondents to choose “Neutral” followed by “Agree.” For the rest of the statements, the choice that was chosen most was “Agree,” although “Neutral” was chosen second on most of them.

This data shows that the majority of respondents have a neutral or favorable opinion of serving the bar through leadership activities.

Urban/Rural Differences

The next several questions were asked to gauge respondents’ opinion on the balance of bar activities provided for “urban” practitioners versus “rural” practitioners.

Sixty-five percent of respondents disagreed or strongly disagreed with the statement "Members outside the urban/metro areas get basically the same level of benefit from the OSB as those within the urban/metro areas." Sixty-two percent agreed or strongly agreed with the statement "I feel less able to access OSB CLE Seminars due to time constraints." And forty-three percent agreed or strongly agreed with the statement "I feel less able to access OSB CLE Seminars due to the cost and financial constraints."

The next question asked participants to rank six services and/or benefits of the bar that are less accessible for rural practitioners. "Quantity/Variety of live CLE presentations" received the most votes as the choice least accessible in rural areas, followed by "Ability to serve on bar committees, sections, work groups and other programs." The lowest-ranked item was "CLE publications and/or BarBooks™," which indicates most rural members aren't concerned about this issue.

Again, participants were asked to rate six items, this time ranking which obstacles got in the way of their bar participation the most. The biggest obstacle was "The travel time away from home/family/personal commitments," followed by "The travel time away from my office." The smallest obstacle of the six was "I don't see great value or reward in participating in OSB activities," which reinforces the previous data showing a favorable view of the bar from most participants. *NOTE: This question had many open-ended responses which can be found in the "Survey Responses" attachment.*

The House of Delegates

The next six questions dealt with the House of Delegates. Forty-nine percent of respondents said they are not very familiar with the HOD, while only 12% stated they are very familiar. The remaining 39% chose "somewhat familiar."

When asked "Do you know any of your region's elected delegates, 64% responded that they did not. When asked if they had been involved in discussing any issues prior to a HOD meeting, 81% had never done so.

The next question asked if the HOD is fairly designed to represent rural practitioners as well as urban ones. Sixty-four percent chose "Do Not Know" as a response, with 13% saying the HOD is fairly designed and 23% saying it is not.

Sixty percent of respondents said they would be more likely to be involved in the HOD if CLE credit were offered for participation and 78% said that meetings should be held outside of the Portland area so that more rural members can participate.

Participants were then asked if they have concerns that the BOG and HOD frequently do not represent their perspective. Sixteen percent agreed that they are not fairly represented. Twenty-three percent said they have no concerns. And 61% answered "Do Not Know." *NOTE: This question had many open-ended responses which can be found in the "Survey Responses" attachment.*

Town Hall Meetings

The next three questions asked about the old "Town Hall" style of meeting that used to be held before the HOD was formed. When asked "Are you familiar with the Town Hall style of meeting?" the response was evenly divided at 50% for each answer.

When asked "Did you ever attend the Town Hall style of meeting?" 28% said Yes and 72% said No. When asked how a Town Hall meeting (as opposed to the HOD system) would affect their participation, 32% said they would be more likely to participate, 6% said they would be less likely to participate and 62% said there would be no change in their level of participation.

Open-Ended Questions

Respondents were asked several open-ended questions to elicit better feedback. *NOTE: The full list of open-ended responses can be found in the "Survey Responses" attachment.* The first question, which asked "Please share any additional comments you have about OSB services and structure as it relates to practitioners outside the Portland metro area," had 20 responses. The most common comment was a request for more live CLE programs outside the Portland area. The rest ranged from the positive – "If we choose to live outside of the portland metro area, the OSB should not have to accommodate practitioners from rural areas" – to the negative – "Lack of access to the Attorney Assistance programs is frustrating, especially the lack of local support groups of job seekers. the staff does a wonderful job on one-to-one issues, but travel to Portland is required for most activities."

The next question said "What should the bar do to foster greater equality in distribution of benefits between urban and rural members?" Responses were once again broad, with two most prevalent: a request to have more CLEs and regular meetings outside of Portland, and a request to have more/better webcasts or online meetings for members who can't travel.

Demographics

Demographic data was also collected for correlation purposes. Although there weren't any respondents who were less than 25 years old, all other age groups were represented fairly evenly, including 65+ years of age. Thirty-two percent of respondents have been practicing law for seven years or less. More than two-thirds of respondents work in practices with five or fewer lawyers, and a full third work as sole practitioners.

Respondents were spread throughout all six regions of the state, with the most coming from regions 1 and 6. The average salary range was \$71,000 to \$80,000, although the range of \$61,000 to \$70,000 was chosen the most out of all ranges. Thirty-two percent of respondents claimed wages of more than \$100,000 per year.

DEMOGRAPHICS

What is your age?

Answer Options	Response Percent	Response Count
20-25	0.0%	0
26-30	10.4%	14
31-35	13.4%	18
36-40	13.4%	18
41-45	6.7%	9
46-50	11.2%	15
51-55	10.4%	14
56-60	14.9%	20
61-65	13.4%	18
65+	6.0%	8

How long have you been practicing law?

Answer Options	Response Percent	Response Count
0-2 Years	10.1%	13
3-5 Years	11.6%	15
6-7 Years	10.1%	13
8-10 Years	5.4%	7
11-13 Years	4.7%	6
14-16 Years	7.8%	10
17-19 Years	6.2%	8
20-22 Years	7.8%	10
23-25 Years	2.3%	3
26-28 Years	6.2%	8
29-31 Years	6.2%	8
32-34 Years	9.3%	12
35-37 Years	3.9%	5
38-40 Years	3.1%	4
41-44 Years	3.9%	5
45+ Years	1.6%	2

What region is your office in?

Answer Options	Response Percent	Response Count
1	24.4%	33
2	17.8%	24
3	19.3%	26
4	6.7%	9
5	5.9%	8
6	25.9%	35

What size is your firm?

Answer Options	Response Percent	Response Count
Sole practitioner	32.8%	39
2-5 Attorneys	35.3%	42
6-10 Attorneys	12.6%	15
11-20 Attorneys	8.4%	10
21-30 Attorneys	2.5%	3
31-40 Attorneys	1.7%	2
41-50 Attorneys	0.0%	0
50+ Attorneys	6.7%	8

What is your salary range?

Answer Options	Response Percent	Response Count
Less than \$30,000	10.3%	12
\$31,000 to \$40,000	6.9%	8
\$41,000 to \$50,000	5.2%	6
\$51,000 to \$60,000	7.8%	9
\$61,000 to \$70,000	15.5%	18
\$71,000 to \$80,000	6.0%	7
\$81,000 to \$90,000	9.5%	11
\$91,000 to \$100,000	6.9%	8
\$101,000 to \$110,000	12.1%	14
\$111,000 to \$120,000	4.3%	5
\$121,000 to \$130,000	4.3%	5
\$131,000 to \$140,000	1.7%	2
\$141,000 to \$150,000	1.7%	2
\$151,000 to \$160,000	2.6%	3
\$161,000 to \$170,000	0.0%	0
\$171,000 to \$180,000	0.9%	1
\$181,000 to \$190,000	0.9%	1
\$191,000 to \$200,000	0.0%	0
More than \$200,000	3.4%	4

SURVEY QUESTIONS

Answer Options	1	2	3	4	5	6	Response Count
Quantity/variety of live CLE presentations	76	16	12	13	9	5	131
CLE publications and/or BarBooks™	7	8	8	6	14	87	130
Access to colleagues with different practice areas	12	25	24	30	32	5	128
Access to the bar - including leadership, staff and PLF	10	24	31	39	24	3	131
Ability to serve on bar committees, sections, work groups and other programs	18	39	30	21	17	6	131
Ability to participate/serve in the bar's disciplinary system	7	19	30	19	34	22	131

Please rate your level of agreement with the following statements:

Answer Options	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Response Count
Participation in OSB leadership activities would be useful to the success of my law practice.	4	27	62	55	8	156
Participation in OSB leadership activities would contribute to my sense of professional satisfaction and fulfillment in my legal career.	1	23	39	78	15	156
I would consider more participation in OSB activities if the bar would contribute to travel expenses for rural members.	6	18	50	60	23	157
I would consider more participation in OSB activities if more bar groups met at least once a year within 60 miles of my home and practice.	2	20	40	69	26	157
I would consider more participation in OSB activities if there were better options for remote participation beyond teleconferencing, i.e. video conferences, web conferences, etc.	1	24	45	63	24	157
The bar should launch a special effort to recruit more participation in bar programs and leadership from lawyers outside the urban/metro area.	1	6	39	65	46	157

Please rate your level of agreement with the following statements:

Answer Options	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Response Count
Members outside the urban/metro areas get basically the same level of benefit from the OSB as those within the urban/metro areas.	31	64	34	16	3	148
I feel less able to access OSB CLE Seminars due to time constraints.	3	20	33	73	20	149
I feel less able to access OSB CLE Seminars due to the cost and financial constraints.	8	36	42	46	17	149

SURVEY QUESTIONS

In descending order of importance (1 being the biggest obstacle and 6 being the smallest), please rank the obstacles to your participation in the OSB:							
Answer Options	1	2	3	4	5	6	Response Count
The travel time away from my office.	32	42	29	10	21	6	140
The travel time away from home/family/personal commitments.	42	34	26	23	10	10	145
The financial expense of travel to the Portland area.	12	14	27	28	28	36	145
Many bar work groups focus on issues/goals that are not of interest to me.	7	21	22	37	36	24	147
I don't see great value or reward in participating in OSB activities.	14	18	14	21	34	47	148
My law practice consumes my professional time, with little left for the OSB.	40	20	33	27	12	20	152
Other (please specify)							16

Other (please specify)

- I didn't quite understand how to answer this question --
- ~~of the leadership of the NLD has been abysmal in their efforts to involve non-Metro-area new lawyers.~~
- ~~I'm involved in professional groups in the Salem area where I work~~
- ~~As a new member to the Oregon State Bar, I would like to participate more. It is difficult as a sole practitioner, it is incredibly time consuming and not time efficient to travel to Portland from the Gorge for a leadership activity. The bar activities seem to be focused on the Portland/Metro area as opposed to North Central Oregon.~~
- I receive no billed hour credit for participation in Bar activities so I have to make up those billable hours on weekends.
- Personal priorities: While I'm still an active member of the Bar, I'm now retired. Have always been involved in Bar service-- usually a committee or task force. Now considering priorities for public service in retirement. It's possible I'll sign up for a bar committee, but my situation is different from that of the active members you most want to reach.
- I work as a judge and the caseload impacts my availability.
- Expense of being away from office
- Actually, my first several years in Oregon I tried to volunteer including to speak at CLEs several times since I had done so in Colorado for decades and wrote bar association articles. I was never asked or accepted and gave up trying.
- at 69 I am nearing retirement. My wife and I travel a great deal and my ability to participate in bar activities is very limited
- The lack of institutionalized Travel accommodations for persons with disabilities has been a barrier in the past.
- Do not consider Ashland a rural community, brought a chuckle about how upstate views the rest of the world. Perhaps Portland should examine its attitude towards the rest of the state!!!!
- General dissatisfaction with the practice as it has evolved in the past 20 years.
- I actually work in Portland now...
- some lawyers do not own a car.
- I am a sole practitioner in a rural setting

How familiar are you with the House of Delegates and its duties?		
Answer Options	Response Percent	Response Count
Not Familiar	48.6%	72
Somewhat Familiar	39.9%	59
Very Familiar	11.5%	17

Do you know any of your region's elected delegates?		
Answer Options	Response Percent	Response Count
Yes	36.3%	53
No	63.7%	93

Have you been involved with the discussion of issues prior to any HOD meetings?		
Answer Options	Response Percent	Response Count
Yes	19.0%	28
No	81.0%	119

Do you think the HOD is fairly designed to reflect the opinions of rural practitioners as well as the urban areas?		
Answer Options	Response Percent	Response Count
Yes	12.9%	19
No	23.1%	34
Do Not Know	63.9%	94

Would you be more likely to participate if you received CLE credit?		
Answer Options	Response Percent	Response Count
Yes	59.6%	87
No	40.4%	59

Should the HOD meetings be held outside the metro area for the convenience of the non-Portland lawyer?		
Answer Options	Response Percent	Response Count
Yes	78.3%	112
No	21.7%	31

Do you have concerns that decisions of the BOG and/or HOD frequently do not represent your perspective? If "Yes," please cite examples in the text box.

Answer Options	Response Percent	Response Count
Yes	15.9%	23
No	23.4%	34
Don't Know	60.7%	88

Examples:

- Using this box for the "convenience on the non-Portland lawyer" question. It's far more than that. The Bar and the Portland lawyers benefit from seeing the rest of the state for some reason other than using it as their playground. Work happens here too.
- *The "diversity" credit should not be a requirement. Members voted on this issue, but the member vote was not reflected in the rules. In addition, the BOG often appears to have reached a decision on HOD matters before the HOD has heard speakers address the matters. Neither gives confidence in the ability of a rural attorney to affect issues meaningfully without climbing into the BOG itself.*
- Yes - But it is totally unrelated to geography or where I practice. I continue to believe the bar should not be legislating which CLE must taken outside of technical competence.
- *I disagree with the requirement of elimination of bias/diversity CLE*
- Its hard for my local bar president to get to meetings.
- *They tend to support "social issues" that are not directly related to the purposes for which the is charged with administering.*
- It is my experience that the BOG and staff make decisions and that there is little chance for input by members or delegates after that. I attended the town hall meetings fairly regularly and with the exception of specialization and attorney client sexual relations can not think of anytime there was a much that the members could have effective input on. The rules for the former town hall meetings and the rules for the house of delegates make input on items of discussion or bringing topics to discussion more difficult. I believe that on the issue of diversity training the rules made bringing this issue to the house more difficult (and what effect did that discussion have.) I am not sure this is a rural urban issue but in the end I feel that the BOG and staff want a rubber stamp and not intelligent debate. This opinion maybe affected by the fact that in the past when I have written on issues relating to the PLF contract (objecting to the statement by the PLF that the contract is not a contract of adhesion) and written to the UTCR committe on proposed rules (arbitrations must be scheduled within 45 days; never happens and now there is the added paperwork for an order allowing the extra time) my comments have been listened to but disregarded. I realise these last two examples are not BOG issues but they contribute to the fact that decisions have been made and member input is not going to sway the governing body.
- *Too many to cite; given the current structure of the BOG and HOD both bodies tend to represent the interests of plaintiffs' trial lawyers and the Bar as an organization, not generally reflecting the interests of the membership as a whole.*
- Political issues
- *It was not clear to me that the BOG had any good justification for the new Bar Center and moving. Although I keep on top of the meeting agenda for BOG meetings and HOD meetings it was very much a surprise that the move was a "done deal" without much discussion among the membership. Most of the members that I mentioned this to were completely taken by surprise by the move and even more so by the lack of awareness among the membership as a general matter. It was not well justified in my opinion.*
- My general impression is that the Bar is susceptible to being swayed by vocal interest groups.
- *diversity training CLE requirements; the HOD is dominated with members who have special interests or limited practices who do not represent the majority of the bar.*
- discrimination issues. There is a presumption that if you don't agree with mandates one is prejudice. Mandatory probono work. I would get less community service if I was a drunk driver rather than a holder of a law license.
- *Meetings outside metro area would be good but I would fear quorum issues if outside metro area.*

Are you familiar with the former Town Hall system of OSB governance, which included an annual meeting where all bar members present were able to vote?

Answer Options	Response Percent	Response Count
Yes	50.0%	73
No	50.0%	73

Did you ever attend a Town Hall meeting prior to the switch to the HOD system?

Answer Options	Response Percent	Response Count
Yes	27.6%	40
No	72.4%	105

If the OSB returned to a Town Hall-style meeting, how likely would your participation be, relative to the current HOD system?

Answer Options	Response Percent	Response Count
More Likely	31.5%	45
Less Likely	6.3%	9
No Change	62.2%	89

Please share any additional comments you have about OSB services and structure as it relates to practitioners outside the Portland metro area.

Response Text

- Seems like a waste of time and money.
 - *I'm a criminal lawyer; I get all I need from OCDLA and don't feel the bar serves any useful function for me.*
 - Would like it if you would offer CLEs and other services outside the portland area.
 - *There are not a lot of services and structure about which to comment.*
 - I have been president of the Douglas county bar and was president of a large county bar when in California. In California, I felt invited to be involved in state bar activities, and despite a 400 mile travel, I was on several CASB committees. Since moving here, everything seems to be in Portland and I dont feel particularly welcome in State bar activities.
 - *More local CLE's would be nice.*
 - I do not consider myself to be a "rural" attorney. I live and work in Salem. I do not consider Salem, Eugene, Bend, or Medford to be rural. Yes, they are not in the Portland-area, but they are not exactly in the boondocks, either.
 - *If we choose to live outside of the portland metro area, the OSB should not have to accommodate practitioners from rural areas.*
 - When I was on committes Portland attorneys wanted meetings on fridays which took more time out of my practice to go to the meeting. When we scheduled meetings outside of Portland, even in Hood River for the benefit of the eastern Oregon member Portland attorneys were much less faithful in their attendance. It was alright for S. Oregon members to drive but getting Portland members to go to Hood River, Bend, or Newport became more and more difficult over the years. The bar also stopped supporting meetings outside of Portland by cutting travel. My experience ended probably ten years ago.
 - *The reason I still could not attend the Town Hall-style meeting is the fact that it would require too much time away from my office. The fact that all meetings are held in the metro area means at least two additional days away from the office for travel.*
 - As a former two-term member of the House of Delegates who has also served on two task forces and a good number of committees over the years, and who "grew up" attending the former Town Hall meetings, I think the Bar has done a pretty good job of providing services to those of us outside the Portland area. Eugene, where I'm located, though, is a fairly easy drive to the Portland area, compared to those who live in Central, Eastern, and Southern Oregon. Visits by the Bar president and Exective Director are important. The "new" Leadership program is a positive step forward. I don't recall all the efforts the leadership has made to connect/stay connected with the members around the state, but I know that it's very important to continue to build leaders and personal relationships with leaders in each area of the state who can keep in touch with those in their community. No brilliant ideas for you. Keep up the good work!
 - *I have a difficult time accessing live CLE programs, at which the interaction with other attorneys interested in the same topics has great value. I have to make a decision to either drive 7 hours each way to attend a CLE, or fly from Boise, Idaho. When I have taken live CLEs they were very beneficial, but the cost of a flight from Boise to attend a CLE most of the Bar just drives a few miles to is prohibitive. I have not attended a live CLE presentation in over 8 years. A CLE on video or audio is not the same. I would love the chance to visit with the other Bar Members, ask questions, and learn face-to-face. Because of where my practice and home are I cannot do so, particularly since I went solo 5 years ago. The OSB seems to focus most energy on those closest. I am as far away as possible and in such a small population "lady lawyers" are still a novelty. I would love to be more involved in live CLEs and Bar Leadership, but with a family and solo practice office the time & money involved, mostly in travel, is prohibitive. Even when I was on the Regional Disciplinary Board, which I enjoyed, the travel and work took so much time (i.e. my last case was a 3 hr drive then a 2 day case) it was overly draining on my family and practice. One huge exception to the lack of Bar Services for rural practioners is the PLF Practice Management team. They will actually visit offices such as mine, help with systems and training. I adore Dee Crocker and all the others in this group.*
- A contact with the OAAP was more typical. I was having some problems directly within the mission of the OAAP, but when I called and asked for help I was offered a Portland, Salem, or Eugene referral. When I explained the distance the representative said I would need to see someone in Boise, Idaho but he didn't know any possibilities. I was essentially told to solve my own problems if I didn't live in the metro area.*

ADDITIONAL COMMENTS: Services & Structure Response Text, continued

- The charge for BarBooks™ for the small office practitioners is particularly irritating.

An earlier question asked if we felt we got enough access to lawyers outside our specialty. Actually, my biggest disappointment was lack of regular access to lawyers within my specialty. The POETS group of the Colorado real estate bar was wonderful and useful. Out here on the coast lawyers seldom get together, let alone assemble in significant sized groups of specialty practitioners.

- *Live webcast of CLE programs is a GREAT idea!*

- More online services or participation via 'meet-me' style telephone conferences would be great.

For those of us living outside the Portland/Metro area, traveling to a bar function mid-week is exhausting and, frankly, near-impossible. Teleconferencing is sometimes possible, but is limiting in terms of participation ability and networking. Furthermore, traveling to bar functions that are situated outside the Portland/Metro area are often more difficult to plan and get to than simply going to Portland. I appreciate the bar's effort in scheduling events in Eugene, Bend and Ashland, for example, but for many rural practitioners, it is even further to drive and more complicated to plan than simply driving to Portland. It is also less appealing than going to the "big city." When I do, I do not just go to the meeting, I am able to visit friends, go shopping, experience great restaurants, go to shows, and enjoy "the city" for a change. Also, Bend is NOT "centrally located" to all Oregonians by car. From Pendleton, it is 5.5 hours on bad roads. Portland is 3.5 hours on freeway. I am always frustrated when I have to go to a meeting outside of the Portland area, for that means more driving, more planning, less fun, and just one more drive-to-a-meeting without the fun of going to the "big city."

- Both the HOD and the Town Hall meetings are out dated. Issues should be presented on the internet, like list serve issues are now discussed. Vote by mail on issues would be inclusive of the entire bar and be less expensive than the HOD.

Lack of access to the Attorney Assistance programs is frustrating, especially the lack of local support groups of job seekers. the staff does a wonderful job on one-to-one issues, but travel to Portland is required for most activities.

- My only real comment is that there is significantly less access to CLEs in central Oregon. Probably more video replays and greater ability to attend remotely via an online connection would be very helpful.

- *OSB does a good job of reaching out for the most part*

What should the bar do to foster greater equality in distribution of benefits between urban and rural members?

Response Text

- Give the Bar and the Portland attorneys a work reason to be out in the rest of the state.
- *There are lawyers with sophisticated, lucrative practices outside Portland. Realize that.*
- Not hold every CLE live in Portland only - no opportunity to meet the presenters or ask questions.
- *Offer CLEs and other services outside Portland (make the Portlanders make the drive for once!), or increase the use of web-based participation. Also offering financial assistance for mileage, etc., would be helpful.*
- I think it is worth noting I do not consider myself a rural practitioner. The email by which this survey was transmitted refers to all lawyers outside the tri-county area as rural. Taken at face value the email seems to indicate that is the bar's position. While I think the language referring to all non-tri-county practitioners as rural was inadvertent, the language of the email itself might just fan a controversy I do not see as significant.
- *Simple. Spend money on a pro-rata basis. Ensure that a proportional amount of resources are allocated to the areas they are collected from. Document these expenditures and include them in an annual report demonstrating: 1) the amount of \$ spent in Portland Metro v. the amount spent in rural areas; 2) compare this to the amount in bar dues collected in the Portland Metro v. the rural areas.*
- Have CLE's and meetings outside the urban area.
- *Hold meetings in Eugene or Medford.*
- Holding live CLE's at the Bar center would help. It's much quicker and easier for those of us outside Portland to get to the Bar Center, than to Downtown Portland, but we'd like to attend live CLEs.
- *People to outreach and inquire of us, even if we are not going to meetings*
- pay travel costs for committee members to attend meetings.
- *Try to become a little less Portland-centric and get to know other areas of Oregon.*
- Expand services for people outside the Portland/Metro area, i.e. CLE's, bar meetings, section meetings, etc.
- *More live CLE's outside of the tri-county area.*
- Nothing. The OSB is centrally located where most of the practitioners reside. This enables the OSB to serve the largest population segment in an efficient manner. Making 'accommodations' for rural practitioners merely means that they are being subsidized for the choices in location of residence/work
- *Webinars and access to live CLEs through the internet are an asset to those of us in Eastern Oregon. Expansion of that means of participation to include bar leadership would be very helpful for rural practitioners.*
- The assumption inherent in the question is that there is an inequality in the distribution of benefits between urban and rural members. The only distinction that I can see is that CLE's are much more common in the I-5 corridor than east of the mountains. Having run CLE's on the east side of the mountains, however, I can say that in many instances (outside of Bend), they were not well attended when offered. I don't see any significant inequality that needs to be addressed.
- *I fell as if Eugene to an extent is the urban community. No sense of an answer for you.*
- I don't know if there is any way to distribute benefits all the way to Malheur County, but it seems having some live CLEs in the Bend area and perhaps a bar presence there also would be beneficial to many attorneys.

I think some rural attorneys would stay out of trouble (ethical/legal) if they had more training and bar contact. It is easy to get "casual" with clients as most are not particularly sophisticated. It is also difficult to get all the CLE credit of proper quality and necessary.

Having more of a rural presence in the bar and practice committees would be of great value to these issues, even if it is disproportionate to the number of attorneys practicing.

One action item which creates issues for some rural attorneys, including myself, is the continued existence of "County Court Judges" with primary probate jurisdiction. Most of the probates I handle are in front of these Judges/Courts. The Judges are not attorneys, and many are not even college graduates. I appear before 2 retired ranchers and 1 retired insurance salesman. The bar likely has no control over this issue, but having the Circuit Courts exert jurisdiction over everything would be helpful. A Judge trained as a lawyer would be helpful.

SUGGESTIONS/COMMENTS: Equality of Benefits Response Text, continued

- Start with every bar member paying equally for access to the Barbooks. Have more of the live video CLEs but make them more user friendly.

NOTE: on the next page, it asked what "region" I am in. I have no idea since you did not include a map and I did not chose to look it up. I inserted number 1 just so I could complete the question, but if Clatsop County is not number 1, then change it.

- *You simply cannot convince Portland lawyers to travel anywhere. Even when you do set committee or section meetings at locations other than Portland, they don't appear or participate by phone. It's ridiculous how privileged they see themselves, compared to those to ALWAYS travel to participate. I don't mind the travel, but the sense of entitlement of Portland practitioners is extremely offputting and rather insulting.*
- Don't know. Do lots of surveys like this one.
- *1. Holding a meeting where ALL attendees participate remotely fosters equality. E.g., Portland metro as well as rural attendees would conference-in from their respective office phones rather than Portland metro attendees gather at the bar office and conference-in the rural attendees. 2. Make available several remote video-conference sites.*
- Create the ability to video-conference and other remote means of access that might allow more participation and camaraderie among those attending. Do not schedule meetings mid-week. For example, I am a Section Treasurer and have never attended the Bar's annual orientation and training for treasurer's because it is always scheduled mid-week for half a day. I would rather place constant calls to the bar with my stupid questions and get half of my job wrong than drive all the way to Portland for half-a-day training in the middle of the week. Ridiculous.
- *see above comments.*
- The OSB should build a greater a sense of community within the Bar. The various practice sections would be a logical place to start. A listserv might be a good place to begin, or forums hosted by the OSB website. CLE's are very practical, but having some less formal ways of meeting with attorneys in the same practice area would be useful. Connect us with technology and it will lead to more face-to-face interaction and a stronger, more inclusive OSB.
- *Not sure there is anything the BAR should do at this point. Desire to participate should be based on a desire to enhance the professionalism of the BAR and making it easier should bear little if any weight to the decision to participate.*
- Simply holding meetings, CLE's, and other functions outside the Portland Metro area would help a lot. Living in Klamath Falls, I can't attend CLE's in Tigard, I can't attend social events at Portland hotels or bar meetings in Portland and Salem. If meeting were held in Klamath Falls, Bend, or Medford, I'd be more likely to attend. Plus be able to meet other attorneys and have them meet me. I think this would be of great value.
- *Yes to the extent discrepancies exist*

What is your main area of practice?

Response Text	# of Responses
Administrative	2
Environmental	2
Employment	4
Criminal	18
General practice	9
Litigation	7
Governmental	13
Appellate	7
Construction	1
Intellectual property	2
Judge	2
Indigent defense	1
Elder	2
Probate	3
Social Security/Disability	4
Tax	1
Family	11
Medical malpractice	1
Bankruptcy	6
Juvenile	1
Domestic relations	3
Municipal	2
Business	9
Estate Planning	13
Real Estate	6
Tort	1
In house counsel	1
Communications	1
Entertainment	1
Personal Injury	1
Securities	1
Energy	1
Risk management	1
Affiliated with a law school	3
Mediation/Arbitration	1

Are you willing to be contacted for a follow-up interview on the issues raised in this survey? If so, please provide your name and/or bar number.

Response Text

- Dennis Koho
- *No--and I don't even know what region I'm in. Your survey insisted on a choice so I randomly picked #3. Marion County.*
- Sure - I know little about the bar and it's governance, but I'd be happy to find out more. Sarah Subias, 095220.
- *Not sure that I get what HOD is about and I totally made up my region number. I'm also not currently practicing law. But, if in spite of all that, you want to contact me my cell is 734-330-5594, bar #094357*
- Mark C. Hoyt 92341
- NO
- Dan McKinney
- *Nancy A. Nordlander 832976*
- Judith Anderson 922158
- *Raul Ramirez 96402*
- Jeffrey L. Pugh 76294
- *No thanks on the follow up. For clarity, I answered that I was in region 2 on the last page not knowing what that means because it was a required field. I am in Eugene. Thank you.*
- Sure.
- *Mona K. Williams 893859*
- Merv Loya
- *Krischele Whitnah, 06344*
- I would be happy to talk to anyone. Darcy Arriola Kindschy, OSB #973044
- *C. Hillestad 931779*
- Cass SkinnerLopata, 072036
- *Yes, I am a HOD delegate; bar; number 96003 541-317-0231*
- I work in Salem. I don't think I'm representative of "rural" practioners because I'm only an hour away from Portland. (I didn't know what region I was in for the question on the last page; I just put "1")
- *Yes. Jennifer Todd. I am a law professor, though, so I don't practice law.*
- I'd rather not. Also, I don't know the region #. I chose 1 to complete the survey. I practice in Salem.
- *Phil Duong, 063181 PS - I had no idea what region I was in b/c it didn't give an explanation of what number meant what region. I randomly picked 4.*
- Robert Engle 66037
- *05060*
- 99017
- *David J. Jack, #812692*
- Heidi von Ravensberg 95446
- *Charles Fadeley 541-549-0125*
- Sally Anderson-Hansell 001934
- *Jim Vick 503-302-3210*
- Elizabeth Baker
- *no*
- Kelly O'Brien
- *Harold S. "Hal" Harding 731219*
- No
- *Werner, 091722*
- 76238
- *Travis Eiva*
- Wayne Belmont OSB # 841662
- *Drew Humphrey, OSB# 074073*
- W. Carter 65020

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July 19, 2010

Ms. Kateri Walsh
OSB Urban/Rural Task Force

Re: Issues Relating to the House of Delegates

As a result of the progressive decline in participation of OSB membership in the Town Hall Meeting system of governance, the House of Delegates (HOD) form of government was conceived, received legislative sanction and ultimately went into effect in 1996.

In contrast to the Town Hall Meeting format that encouraged full participation from members of the OSB at its Annual Meeting, the HOD model carves the state into regions, including a region for out-of-state practicing lawyers, and allows the membership to vote for a certain number of delegates from each region who will represent the membership at the Annual Meeting. Since the HOD was created, there have been some changes in the number and configuration of these regions as the Board of Governors (BOG) is charged with the responsibility of reviewing the HOD structure at least once every 10 years to ensure the "one lawyer one vote" concept upon which the HOD form of government is based. Currently, there are seven regions that elect 129 delegates as follows:

Region 1 (Central & Eastern Oregon Counties)	8
Region 2 (Lane)	9
Region 3 (Mid to Southwestern Oregon minus Lane)	8
Region 4 (Washington, Tillamook, Clatsop)	11
Region 5 (Multnomah)	54
Region 6 (Marion, Yamhill, Clackamas)	23
Region 7 (out-of-state)	17

In addition, the BOG appoints from each region, except Region 7 (out-of-state), one public member. The remaining balance of the HOD is made up of the following:

1. BOG - 16
2. Ex-officio local bar presidents - 30
3. Ex-officio OSB Section Chairs - 39

Accordingly, the total HOD membership is 222, 129 of which are elected and the

the case when the Annual Meeting is in Bend or at Salishan. With the opening of the new Bar Center and its ability to accommodate the Annual Meeting, the overall cost will be reduced, but the time element and expense for rural HOD member attendance will not be.

Another problem that has impeded the HOD from being a cohesive, energized unit is that there are few systems in place that facilitate inter and intra-region communication among the HOD. During the four years I was on the BOG (2005-2008), HOD resolutions seem to come ad hoc from only a few members of the HOD. If it wasn't for those members, there would have been little business to conduct at the Annual Meetings I attended.

I am not convinced that the HOD model of governance is headed for extinction like the Town Hall Meeting; however, I believe that unless changes are made, the membership will seriously question its relevance and the HOD's utility will continue to erode. If the HOD model does survive without change and if the Annual Meeting takes place at the Bar Center, the metropolitan bar regions will dominate bar governance. That possibility or probability is what should be of concern to this Task Force. The following are suggestions, and I am sure there are others, for possible change that could help energize the HOD, while at the same time facilitate greater participation from the rural HOD regions and its members:

1. Allow HOD members from each region to appoint/elect a chairperson and give that individual some autonomy in organizing meetings within his/her region;
2. Allow the chairs from each region to meet at least once a year, in conjunction with a BOG meeting, to discuss problems/issues that would be suitable subjects for discussion at the Annual Meeting;
3. Encourage all HOD members to attend at least one BOG meeting a year;
4. Make HOD issues a regular agenda topic at BOG meetings;
5. Hold a mid-year combination HOD meeting/CLE at the Bar Center with time for training and a few break-out sessions; and
6. Introduce technology (i.e. video conferencing) to allow for better quality regional HOD meetings (currently, there is only one regional meeting a year conducted by a BOG representative and an OSB liaison scheduled approximately one month prior to the Annual Meeting and these are primarily conducted by telephone conference call for those who cannot attend) and offering remote attendance as an option to personal appearance at the Annual Meeting.

remaining 93 are non-elected. To conduct business at the BOG Annual Meeting, there must be over 50% in attendance to establish a quorum.

The HOD powers are limited by statute. ORS 9.139 provides that the HOD has the authority to:

1. Modify or rescind actions or decisions of the BOG; and
2. Direct the BOG as to future action.

However, the HOD (again by ORS 9.139), is statutorily prevented from doing the following:

1. Invalidating payments previously made at the direction of the BOG;
2. Directing, modifying or rescinding assessments established by the BOG to the PLF; and
3. Directing, modifying or rescinding actions of the BOG that are subject to review and approval by the Supreme Court.

Historically, the HOD, at the Annual Meeting, has dealt with the following issues:

1. Disciplinary rules changes;
2. OSB positions on major legislation and policy issues;
3. Member resolutions on a variety of topics; and
4. OSB member dues increases.

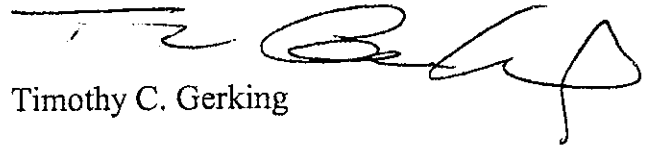
For a number of years, the BOG has been concerned over what appears to be a feeling of malaise or a sense of apathy that has infected the HOD process. This has been characterized by low attendance at the Annual Meeting where achieving a quorum is always problematic (in fact, a quorum was not established at the 2008 Annual Meeting in Bend), and the number and quality of HOD resolutions appear to be in relative decline.

Since the 2008 Annual Meeting debacle, the BOG has made several HOD rule changes to address the issue of attendance. The BOG has approved mileage reimbursement at the IRS rate to encourage attendance. Further, to address the historically poor attendance by the non-elected HOD members (local bar presidents, OSB section chairs) that make up approximately 40% of the total HOD membership, the BOG has by rule now allowed local presidents and section chairs to designate someone from their local bar or their section to go in their place.

Problems still persist, however. Even with mileage reimbursement, it is still a hardship for HOD members, particularly from rural regions, to take time away from their practices, travel great distances and pay for meals and expensive lodging. This is particularly

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I hope the foregoing is useful for purposes of further discussion among members of the Task Force.



Timothy C. Gerking

OREGON STATE BAR

Policy and Governance Committee Agenda

Meeting Date: February 17, 2011
From: Sylvia E. Stevens, Executive Director
Re: Renewing Resolution to Amend RPCs 1.2 and 3.4

Action Recommended

Consider whether to resubmit proposed amendments to Oregon RPC 1.2 and 3.4 to the HOD in 2011.

Background

The proposed amendments to Oregon RPCs 1.2 and 3.4 were submitted to the House of Delegates in 2010, but defeated. Based on the debate in the HOD, it appears that the vote turned less on the language changes proposed than on a misunderstanding of other aspects of the rules. DCO and GCO staff continue to believe that the proposed amendments will make the rules clearer.

The proposed changes are as follows:

Rule 3.4 Fairness to Opposing Party and Counsel

A lawyer shall not:

* * *

(c) knowingly disobey an obligation under the rules or a ruling of a tribunal, except for an open refusal based on an assertion that no valid obligation exists;

* * *

Rule 1.2 Scope of Representation and Allocation of Authority Between Client and Lawyer

* * *

(c) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is illegal, [or] fraudulent, or in violation of a court rule or ruling, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

* * *

Former DR 7-106(A) generally prohibited a lawyer from “disregard[ing] or advis[ing] the lawyer’s client to disregard a standing *rule* of a tribunal *or a ruling* of a tribunal.” By contrast,

Oregon RPC 3.4(c) prohibits a lawyer from knowingly disobeying “an obligation under the *rules* of a tribunal.” On its face the rule does not appear to apply to “rulings” of a tribunal.

Commentators suggest that ABA Model Rule 3.4(c) was intended to mirror *former* DR 7-106(A) and to encompass *rulings* as well as *standing rules* of tribunals. Courts in several jurisdictions have so held, but there is no such authority in Oregon. There is some question whether the Supreme Court would extend the scope of 3.4(c) to rulings of the court in view of its statement in *In re Gatti*, 330 Or 517 (2000) that the “court will not add language to a disciplinary rule.”

Moreover, RPC 3.4(c) governs on the lawyer’s own conduct and does not clearly prohibit a lawyer from advising a *client* to ignore a court order or standing rule. Something of that flavor is found in RPC 1.2, which prohibits counseling or assisting a client to engage in illegal conduct. The term “illegal” clearly encompass conduct forbidden by or in violation of statute. *In re Conduct of Hockett*, 303 Or 150 (1987). The dictionary definition of “illegal” includes forbidden by regulation or ordinance, but there is no Oregon case law indicating that “illegal conduct” includes violation of standing court rules or rulings.

The Oregon Supreme Court has indicated that Oregon lawyers should be subject to professional discipline for more than engaging in criminal conduct. During the discussions leading up to the Court’s adoption of the RPCs, the Court specifically rejected the language in ABA Model Rule 1.2 which prohibited counseling or assisting a client with conduct known to be “criminal or fraudulent.” The Court wanted lawyer to be held to a higher standard, prohibited from assisting in any illegal conduct whether civil or criminal in nature.

The deficiency in the language of RPC 3.4(c) was highlighted in a recent disciplinary matter in which the lawyer admitted advising his client to ignore a parenting time schedule ordered by the court in the parties’ dissolution. Because RPC 3.4(c) does not refer to “rulings of the tribunal,” the bar proceeded on the theory that the lawyer’s conduct was prejudicial to the administration of justice in violation of RPC 8.4(a)(3). The trial panel dismissed the charge, concluding that any prejudice to the administration of justice was the result of the client’s decision based on the lawyer’s advice and not on the lawyer’s conduct *per se*.

During the HOD debate, several members expressed concern that amending the rules as proposed would prohibit lawyers from advising clients to ignore rulings that are believed to be invalid or wrong. That ignores the plain language of RPC 3.4, which allows a lawyer to “openly refuse” to obey a court rule on the stated premise that no valid obligation exists. Similarly, the second clause of RPC 1.2(c) permits a lawyer to “counsel or assist” a client in a good faith effort to determine the “validity, scope, meaning or application of the law.” Comment [12] to ABA Model Rule 1.2 explains that:

“...determining the validity or interpretation of a statute or regulation may require a course of action involving disobedience of

the statute or regulation or of the interpretation placed upon it by governmental authorities.”

There is scant case law on how that “testing” of a law is manifested. One authority says a lawyer may advise a client to take certain positions regarding tax filings if the lawyer has a good faith belief that the positions are warranted in existing law or believes there is a realistic possibility that the law can be extended, modified, or reversed consistent with the positions taken. Another authority opines that a lawyer may counsel a client to refuse a blood alcohol tests where the state of the law is uncertain as to whether a right of refusal exists.

Both of those examples indicate something other than merely ignoring a law. Moreover, RPC 1.2 speaks only of “the law” and the comment refers to “statute or regulation,” suggesting that the authority to test the law does not extend to court rulings. The only available mechanism would be by appeal or other legal challenge.

Notwithstanding the concern expressed at the HOD, the proposed amendments would not seem to make RPC 1.2 any more restrictive than it already is in terms of the extent of permissible testing. At the same time, some of the concern could be alleviated by adding the reference to court rules and rulings to the second clause, to-wit:

**Rule 1.2 Scope of Representation and
Allocation of Authority Between Client and Lawyer**

* * *

(c) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is illegal, [or] fraudulent, or in violation of a court rule or ruling, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law or of a court rule or ruling.

* * *

Should the BOG believe it is advisable to renew its resolution to amend these rules, the intervening time could be used to educate bar members about the existing scope of RPC 1.2 through a bar counsel column.

OREGON STATE BAR

Policy and Governance Committee Agenda

Meeting Date: February 17, 2011
From: Sylvia E. Stevens, Executive Director
Re: Advertising Rules in the Northwest

Action Recommended

Consider whether to ask the Advertising Task Force or Legal Ethics Committee to study and make recommendations for amending Oregon's advertising rules for consistency with our neighboring states.

Background

At the 2010 HOD meeting, a resolution to conform Oregon's RPCs on advertising to the Washington rules was voted down, principally because delegates felt they didn't have enough information about the effect of the changes. During the discussion, a couple of member suggested that the issue was appropriate for further study, not only because of the significant number of lawyers who practice in both Oregon and Washington, but also because increased reciprocity means more lawyers will be practicing in different states and will benefit from more uniformity in regulation.

Washington's advertising rules closely mirror the ABA Model Rules as they were promulgated in 1983. By contrast, Oregon's advertising rules are based on the old ABA Code of Professional Responsibility from which they were drawn in 1970. The rules were amended slightly from time to time over the next twenty years. The most significant revision occurred in 1992, but the rules continued to adhere more closely to the *former* ABA Model Code than to the more modern approach of the ABA Model Rules.

In 2008, the BOG created another task force at the Supreme Court's request, instigated in part by a New York decision striking down several part of New York's advertising rules that were similar to Oregon's. After considerable study, debate and discussion, the task force concluded that much of what is in Oregon's rules cannot withstand scrutiny under Oregon's liberal free speech protections. The task force recommended streamlining the rules even more than the ABA Model Rules and asked the BOG to issue the report for member comment and input. Opposition from OTLA resulted in the BOG taking no action on the report and recommendations.

If the committee believes it would be wise to renew the discussion about our advertising rules, it might be helpful to ask the Legal Ethics Committee to review the 2009 task force report. The task force could also be reinstated to assist with a state-wide conversation about the task force's findings and recommendations.

OREGON STATE BAR

Policy and Governance Committee Agenda

Meeting Date: February 17, 2011
Memo Date: February 2, 2011
From: Helen M. Hirschbiel, General Counsel
Re: Amendments to OSB Bylaw 24.201

Action Recommended

The Professional Liability Fund (PLF) requests that the Board of Governors amend OSB Bylaw 24.201 to specifically include “judges” in addition to lawyers as eligible recipients of services provided by the PLF Personal and Practice Management Assistance Committee (PLF-PPMAC).

Background

The PLF-PPMAC programs are the Oregon Attorney Assistance Program (OAAP) and the Practice Management Assistance Program (PMA). The PLF-PPMAC was created pursuant to ORS 9.568(2), which provides:

...the board may create personal and practice management assistance committees to provide assistance to lawyers who are suffering from impairment or other circumstances that may adversely affect professional competence or conduct. Personal and practice management assistance committees may also provide advice and training to lawyers in practice management.

Pursuant to OSB Bylaw 24.201, the PLF-PPMAC

has the authority to provide assistance to lawyers who are suffering from impairment or other circumstances that may adversely affect professional competence or conduct and may also provide advice and training to lawyers in practice management. The PLF-PPMAC may provide this assistance through the PLF’s Oregon Attorney Assistance Program and the Practice Management Advisor Program and by the use of the PLF staff and volunteers.

The PLF recommends OSB Bylaw 24.201 be amended to read:

[The PLF-PPMAC] has the authority to provide assistance to lawyers **and judges** who are suffering from impairment or other circumstances that may adversely affect professional competence or conduct and may also provide advice and training to lawyers in **law** practice management. The PLF-PPMAC may provide this assistance through the PLF’s Oregon Attorney Assistance Program and the Practice Management Advisor Program and by the use of the PLF staff and volunteers.

The bylaw currently mirrors the language of the statute, which doesn't say anything about judges. That said, most judges are lawyers, and so might reasonably be considered a subset of the more general term "lawyers." Consequently, it is staff's opinion that the statute and bylaw currently allow the PLF-PPMAC to provide services to judges. In fact, the PLF-PPMAC programs have historically been open to judges.

While an amendment to the bylaw may be technically unnecessary, there is no harm in making the proposed change. Further, the PLF provides good reason for the proposed change. The OAAP has been working with a committee of judges to improve judicial access to the OAAP. The committee has encouraged the OAAP to make its services more visibly directed toward judges in particular as well as lawyers in general. Amending the bylaw to specifically add "judges" as eligible recipients of the PLF-PPMAC services is part of that effort.

Similarly, deleting "to lawyers" broadens the reach of the PLF-PPMAC. In order to ensure services continue to focus on law practice rather any type of practice, the generic term "practice management" should be modified to say "law practice management."

Conclusion

OSB Bylaw 24.201 should be amended as provided herein.



Professional Liability Fund

Ira R. Zarov
Chief Executive Officer

M E M O R A N D U M

DATE: January 31, 2011

TO: OSB Policy and Governance Committee

FROM: Barbara S. Fishleder, PLF Director of Personal and Practice Management Assistance/OAAP Executive Director *BSF*

RE: Suggested Amendment to OSB Article 24.201

SUMMARY OF REQUEST

The Professional Liability Fund requests that the OSB Board of Governors amend Article 24.201 to include the word “judges” in addition to the word “lawyers.” The inclusion of the word judges will better reflect existing program use and is consistent with OAAP’s current efforts to increase program access by judges. The amendment allows more visibility of OAAP’s services to judges but does not expand the program or the scope of the original article.

BACKGROUND

The personal and practice management assistance programs of the Professional Liability Fund [Oregon Attorney Assistance Program (OAAP) and Practice Management Assistance Program (PMA)] have historically provided assistance to lawyers of all kinds. For example, assistance is provided to lawyers in private practice, in-house counsel, pro-se judges, appointed judges, retired judges, retired lawyers, disciplined lawyers, and disciplined judges.

These services are available as a result of the OSB Board of Governors utilization of ORS 9.568(2) which gives the OSB Board of Governors the ability to create a personal and practice management assistance committee:

“...the board may create personal and practice management assistance committees to provide assistance to lawyers who are suffering from impairment...” ORS 9.568(2)(a)

Utilizing this enabling statute, the board of governors created article OSB 24.201 and enumerated the specific types of assistance that the PLF Personal and Practice Management Assistance Committee could provide. The article provides:

“The Professional Liability Fund Personal and Practice Management Assistance Committee ("PLF-PPMAC ") has the authority to provide assistance to lawyers who are suffering from impairment or other circumstances that may adversely affect professional competence or conduct and may also provide advice and training to lawyers in practice management. The PLF-PPMAC may provide this assistance through the PLF’s Oregon Attorney Assistance Program and the Practice Management Advisor Program and by the use of the PLF staff and volunteers.” OSB Article 24.201

REASON FOR REQUESTED AMENDMENT

OSB Article 24.201 has always been utilized by the Professional Liability Fund to provide personal assistance (through the Oregon Attorney Assistance Program) and practice management assistance (PMA provide) to lawyers and judges.

Over the last year, the Oregon Attorney Assistance Program has been working with a committee of judges to improve judicial access to the OAAP. The judges have encouraged us to make the OAAP more visibly directed toward judges as well as lawyers and, as a result, we have expanded our marketing efforts from “lawyers” to “lawyers and judges.”

ACTION REQUESTED

Consistent with the above referenced approach, we are requesting that OSB Article 24.201 be amended in the following way:

“The Professional Liability Fund Personal and Practice Management Assistance Committee ("PLF-PPMAC ") has the authority to provide assistance to lawyers **and judges** who are suffering from impairment or other circumstances that may adversely affect professional competence or conduct and may also provide advice and training **to lawyers** in law practice management. The PLF-PPMAC may provide this assistance through the PLF’s Oregon Attorney Assistance Program and the Practice Management Advisor Program and by the use of the PLF staff and volunteers.”

In the alternative, we request that a clarification be added at the end of OSB Article 24.201 as noted in bold below:

“The Professional Liability Fund Personal and Practice Management Assistance Committee ("PLF-PPMAC ") has the authority to provide assistance to lawyers who are suffering from impairment or other circumstances that may adversely affect professional competence or conduct and may also provide advice and training to lawyers in practice management. The PLF-PPMAC may provide this assistance through the PLF’s Oregon Attorney Assistance Program and the Practice Management Advisor Program and by the use of the PLF staff and volunteers.” **The term “lawyer” in this article refers to lawyers and judges.**

We appreciate the Board of Governor’s consideration of this amendment.

Oregon State Bar
Meeting of the Board of Governors

November 13, 2010

Minutes

Draft

The meeting was called to order by President Kathleen Evans at 10:05 a.m. on November 13, 2010, and adjourned at 2:18 p.m. Members present from the Board of Governors were Barbara Dilaconi, Kathleen Evans, Ann Fisher, Michael Haglund, Gina Johnnie, Derek Johnson, Christopher Kent, Ethan Knight, Karen Lord, Audrey Matsumonji, Mitzi Naucler, Maureen O'Connor and Stephen Piucci. Staff present were Sylvia Stevens, Helen Hierschbiel, Jeff Sapiro, Rod Wegener, Susan Grabe, Kay Pulju, Anna Zanolli and Camille Greene. Also present were PLF Board Chair Ron Bryant, Jessica Cousineau, ONLD president, and Tamara Gledhill-Kessler, OLND President-Elect, Tom Kranovich and Jenifer Billman. Eugene Buckle, chair of the Council on Court Procedures, attended a portion of the meeting.

1. Inspiration

Audrey Matsumonji paid tribute to our country's veterans with a short history of Veteran's Day.

2. Department Presentations

Mr. Wegener presented an overview of OSB Facilities & Operations. He described the department's four-fold mission: save money and time, improve processes, improve customer service, and improve learning. .

3. Nominating Committee

A. Recommendation for President-elect

Motion: Ms. Evans presented the nominating committee's recommendation that Mitzi Naucler be the President-elect in 2011. The board voted unanimously in favor of the motion.

4. Introduction of New Board Members

Ms. Evans introduced incoming BOG members Tom Kranovich and Jenifer Billman.

5. Report of Officers

A. Report of the President

As written.

B. Report of the President-elect

As written.

C. Report of the Executive Director

As written. In addition, Ms. Stevens asked all 2011 BOG Members to fill out committee preference forms for 2011 and presented the tentative BOG schedule for 2011 and 2012.

D. Oregon New Lawyers Division (ONLD)

Ms. Cousineau reported on a variety of ONLD projects and events described in her written report. She also reported that the ONLD's annual meeting on November 12 was well attended. The ONLD honored Margaret Robinson with a song written by Paul Neese. The ONLD is collecting donations in Ms. Robinson's name for Northwest Coalition Against Sex Trafficking.

Ms. Kessler has been selected as 2011 Chair. She has been with the division for almost five years.

6. Professional Liability Fund (PLF)

A. Approval of Changes to PLF Policy 5.200(I)

Mr. Zarov and Mr. Bryant explained the proposed change to the PLF policy on asset allocation.

Motion: Ms. Naucler moved, Mr. Knight seconded, and the board voted unanimously to approve changes to PLF Policy 5.200(I) as proposed.

B. 2011 Changes to Coverage Plans

Mr. Zarov and Mr. Bryant explained the proposed changes to the PLF coverage plans relating to the definition of "beneficiary," reduction of claims limit for discretionary expenses, and family member claims.

Motion: Ms. Dilaconi moved, Mr. Piucci seconded, and the board voted unanimously to approve the requested changes to the PLF Coverage Plans as proposed.

Mr. Zarov reported on the lawsuit filed by the PLF to determine whether it is subject to the Medicare reporting requirements of the new health care legislation. He has been working with Kateri Walsh in the event the press takes an interest. Mr. Zarov also reported the PLF will have its second-highest annual claims in 2010, principally due to the changes in the real estate market since 2008.

Mr. Bryant reported that Fred Ruby will be the 2011 PLF Chair. He also reported that Mr. Zarov had a very favorable annual evaluation. Mr. Bryant thanked the BOG for including him in its meetings and its support of the PLF budget. Ms. Evans in turn thanked Mr. Bryant for his support and participation.

7. Special Appearances

A. Report on the 2010 American Bar Association House of Delegates meeting

As written. The ABA delegates may request time at a special meeting in January to seek guidance on issues that will be before the ABA House in early February 2011.

8. OSB Committees, Sections, Councils, Divisions and Task Forces

A. Review Recommendation of Out of State Lawyers in Arbitration Task Force

Ms. Stevens reviewed the report and recommendations of the OOSLA Task Force relating to registration of out-of-state lawyers participating in Oregon arbitrations. The majority concluded that registration is not necessary and recommended against implementing such a program. The minority believed that clients represented by the out-of-state lawyers should have the same protection in the event of malpractice that clients of Oregon lawyers have, and recommended amending Oregon RPC 5.5 to create a registration process requiring proof of equivalent insurance or that the client has been notified that the out-of-state does not have such insurance.

Motion: Mr. Kent moved, Mr. Piucci seconded, and the board voted unanimously to adopt the minority view of the task force, including its recommendation for amending Oregon RPC 5.5. This will go to HOD in Oct 2011.

B. Update on Mentoring Task Force

Mr. Piucci reported on the status of the task force's work to date. He reminded the BOG that the Chief wants this mentoring program in effect by May 2011 and that the task force is confident that its "modified Utah model" will be ready in time.

9. BOG Committees, Special Committees, Task Forces and Study Groups

A. Access to Justice Committee [Ms. Johnnie]

1. Lawyer Referral Service – DOL Pilot Project

Motion: The board voted unanimously to approve the committee motion that the LRS participate in an ABA/DOL pilot project for FMLA and FLSA referrals.

2. Revision to Language in the OSB Legal Services Program Standards and Guidelines

Motion: The board approved the committee motion to revise the Legal Services Program Standards and Guidelines relating to provider peer reviews as proposed. (12 yes; 0 no; Ms. Naucler abstained.)

3. Reallocation of Legal Services Program funding to legal aid providers.

Motion: The board voted to approve the committee motion that some of LASO's non-statewide funding be reallocated to the Oregon Law Center, with the LSP director authorized to make the final determination as to the reallocated amounts. (12 yes; 0 no; Ms. Naucler abstained.)

B. Appellate Screening Committee

1. Approve Slate to Governor's Office

Ethan Knight reported in Mr. Larson's absence. The committee found all candidates to be qualified and Joe O'Leary, General Counsel for the Governor's office, took the committee's recommendations to Governor Kulongoski.

Motion: The board voted unanimously to approve the committee's recommended slate of candidates (**Exhibit 1**).

C. Appointments Committee

1. Appointment to Council on Court Procedures

Motion: Ms. Dilaconi reported that the committee had previously selected an appointee to the Council on Court Procedures, but lacked a quorum to recommend the appointment. The board voted unanimously to approve the committee motion that Jennifer Gates be appointed to the open position on the Council on Court Procedures.

D. Budget and Finance Committee [Mr. Kent]

1. 2011 OSB Budget Review and Approval

Mr. Kent reported that there will be net revenue in 2010, confirming the BOG's earlier decision not to seek a fee increase for 2011. The committee had motions relating to two specific components of the 2011 budget.

First was the proposed fee of \$100 for new admittees participating in the New Lawyer Mentoring Program. The fee will be paid at the conclusion of the program and new admittees will receive 6 hours of general MCLE credit to apply to the next reporting period.

Motion: The Committee motion to approve the \$100 fee was approved unanimously.

Second was the Diversity Section's request for a contribution of \$10,000 plus in-kind support for the Convocation on Equality (COE) that is scheduled for November 4, 2011. The committee recommends approving the provision of in-kind support, which is estimated to have a value of \$20,000. The committee also recommended assisting the Section with securing the facility for the COE, up to \$11,000. There was a lengthy discussion about the COE at which the following points were raised: it is important that the COE be consistent with the OSB's diversity objectives; should the OSB Diversity Manager oversee the provision of support; this looks to be an impressive program and the BOG should give it support and autonomy; the bar's in-kind and cash contributions will make the bar the largest contributor so shouldn't the event be called the Oregon State Bar COE; it is important to recognize a distinction between the AAC and the Diversity Section; the OSB Diversity Program manager supports the Section's request and has been reaching out to potential sponsors.

Motion: The Committee's motion to advance funds necessary to secure the facility and to provide in-kind support was approved. (11 yes; Ms. Naucler and Mr. Haglund opposed.)

Motion: The committee motion to approve the 2011 budget passed unanimously.

E. Member Services Committee [Ms. Fisher]

1. OSB Financial and Staff Support for the 2011
See discussion under Budget & Finance.

F. Policy and Governance Committee [Ms. Naucler]

1. Revised Ethics School Rule of Procedure

Motion: The committee recommended approval of a revised BR 6.4 incorporating changes suggested by the Supreme Court. The board voted unanimously to approve the committee motion (**Exhibit 2**).

2. Amendment to MCLE Rule 5.2(c)(2)

Motion: The committee recommended adoption of the MCLE Committee's proposal to allow MCLE credit for substantive editing of published work. The board voted unanimously to approve the committee motion (**Exhibit 3**).

3. New Lawyer Training Program Rule

Motion: The committee recommends approval and submission to the Supreme Court of the proposed New Lawyer Training Program implementing rule, as amended to replace "an active member" in paragraph 4 with "a member." The board voted unanimously to approved the committee recommendation (**Exhibit 4**).

4. Amendment to Bylaw 16 – CLE and Legal Action Publications

Motion: The committee recommended approval of amendments to Bylaw 16, relating to the "self-supporting" aspirational goal, reduced and complimentary registrations, and volunteer recognition. The committee also recommended that the one-meeting notice be waived so that the amended bylaw will be in place when the BarBooks benefit becomes operational. The board voted unanimously to approve the committee motions (**Exhibit 5**).

G. Public Affairs Committee

1. Public Affairs Update on the Election

Ms. Grabe pointed out that the annual sessions will move quickly. Because of the split in both houses, it will be necessary to reach out equally to all sides. The big issue for legislature in 2011 will be the budget. Section bills will be pre-session filed in December. Mr. Piucci suggested having a meeting like the one last year for all the sections that have legislative proposals for the 2011 session. Ms. Grabe plans to send an informative email to bar group leaders prior to the session.

2. Update on Court Fees Task Force.

Ms. Grabe had updated the BOG during the November 12 planning session and no additional information was provided.

3. Formation of Juvenile Dependency/Delinquency Task Force

The Public Defense Services Commission has requested the appointment of a task force to review the juvenile representation standards that have not been changed since 2006.

Motion: The committee recommended creation of a task force. The board voted unanimously to approve the committee motion.

10. Consent Agenda

Motion: Ms. DiIaconi moved, Ms. Fisher seconded, and the board voted unanimously to approve the consent agenda, including additional appointment recommendations (**Exhibit 6**).

11. Good of the Order (Non-action comments, information and notice of need for possible future board action)

**Oregon State Bar
Board of Governors Meeting
November 13, 2010
Judicial Proceedings Minutes**

Reinstatements and disciplinary proceedings are judicial proceedings and are not public meetings (ORS 192.690). This portion of the BOG meeting is open only to board members, staff, and any other person the board may wish to include. This portion is closed to the media. The report of the final actions taken in judicial proceedings is a public record.

A. Reinstatements

1. Derek Anderson – 961329

Ms. Fisher presented information concerning the BR 8.1 reinstatement application of Mr. Anderson to satisfy the one meeting notice requirement of Bylaw 6.103. The application will come before the board at a later meeting.

2. Rick Blake – 001396

Motion: Mr. Sapiro presented information concerning the BR 8.1 reinstatement application of Mr. Blake. Ms. Fisher moved, and Ms. Matsumonji seconded, to recommend Mr. Blake’s reinstatement to the Supreme Court, conditioned upon Mr. Blake obtaining 45 hours of CLE credit before his reinstatement becomes effective. The motion passed unanimously.

3. Brian J. Dobie – 902490

Mr. Sapiro presented information concerning the BR 8.1 reinstatement application of Mr. Dobie to satisfy the one meeting notice requirement of Bylaw 6.103. The application will come before the board at a later meeting.

4. Kelly H. Hughes – 011690

Motion: Ms. Johnnie presented information concerning the BR 8.1 reinstatement application of Mr. Hughes. Ms. Johnnie moved, and Ms. DiIaconi seconded, to recommend Mr. Hughes’ unconditional reinstatement to the Supreme Court. The motion passed unanimously.

5. Aaron Jacoby – 990653

Motion: Mr. Sapiro presented information concerning the BR 8.2 reinstatement application of Mr. Jacoby. Ms. DiIaconi moved, and Mr. Knight seconded, to

recommend to the Supreme Court that Mr. Jacoby be conditionally reinstated for a period of two years, during which time Mr. Jacoby is to continue with a treatment program and be monitored by the State Lawyers Assistance Committee. The motion passed unanimously.

6. Allan K. Knappenberger – 731691

Motion: Mr. Haglund presented information concerning the BR 8.1 reinstatement application of Mr. Knappenberger. Mr. Haglund moved, Mr. Kent seconded, and the board voted unanimously to recommend to the Supreme Court that Mr. Knappenberger's application be denied.

7. William J. Schermer - 793795

Ms. Lord presented information concerning the BR 8.1 reinstatement application of Mr. Schermer to satisfy the one meeting notice requirement of Bylaw 6.103. The application will come before the board at a later meeting.

8. Cheryl K. Smith – 911037

Mr. Knight presented information concerning the BR 8.1 reinstatement application of Ms. Smith to satisfy the one meeting notice requirement of Bylaw 6.103. The application will come before the board at a later meeting.

9. Matthew AC U'ren – 940361

Motion: Mr. Piucci presented information concerning the BR 8.1 reinstatement application of Mr. U'ren. Mr. Piucci moved, and Ms. O'Connor seconded, to recommend Mr. U'ren's unconditional reinstatement to the Supreme Court. The motion passed unanimously.

B. Disciplinary Counsel's Report

As written.

**Oregon State Bar
Board of Governors Meeting
November 13, 2010
Executive Session Minutes**

Discussion of items on this agenda is in executive session pursuant to ORS 192.660(2)(f) and (h) to consider exempt records and to consult with counsel. This portion of the meeting is open only to board members, staff, other persons the board may wish to include, and to the media except as provided in ORS 192.660(5) and subject to instruction as to what can be disclosed. Final actions are taken in open session and reflected in the minutes, which are a public record. The minutes will not contain any information that is not required to be included or which would defeat the purpose of the executive session.

A. Unlawful Practice of Law

1. Lance Nickerson, dba A-1 Quality
Paralegal (UPL Case No. 09-48)
2. Judith A. Schons (UPL Case No. 10-11)
3. Vinh L. Huynh, dba AnTam Legal Services (UPL Case No. 10-13)

Motion: Ms. DiIaconi moved, Mr. Piucci seconded, and the board voted unanimously to approve the cease and desist agreements with Lance Nickerson, Judith Schons, and Vinh L. Huynh.

B. General Counsel's Report

The BOG received status reports on the non-action items.

Oregon State Bar
Special Meeting of the Board of Governors
January 7, 2011
Minutes
Draft

The meeting was called to order by President-elect Mitzi Naucler at 8:30 a.m. on January 7, 2011, and adjourned at 9:00 a.m. Members present from the Board of Governors were Jenifer Billman, Barbara Dilaconi (via phone), Hunter Emerick, Michelle Garcia, Michael Haglund (via phone), Gina Johnnie, Matthew Kehoe, Christopher Kent, Ethan Knight, Tom Kranovich, Audrey Matsumonji (via phone), Mitzi Naucler and Maureen O'Connor. Staff present were Sylvia Stevens, Helen Hirschbiel, Amber Hollister, Susan Grabe, Catherine Petrecca and Camille Greene. Marilyn Harbur, ABA HOD Delegate, attended a portion of the meeting.

1. Call to Order

2. Reports of Officers

A. Swearing-In of New Board Members

BOG President-elect, Mitzi Naucler, swore in new board members Jenifer Billman, Hunter Emerick, Matthew Kehoe and Tom Kranovich.

3. Loan Repayment Assistance Program

A. Approval of Changes to LRAP Policies and Guidelines

Ms. Petrecca presented the Loan Repayment Advisory Committee recommendation to approve changes to the Loan Repayment Assistance Program (LRAP) Policies and Guidelines (as attached) to allow the LRAP to help more public service attorneys.

Motion: Chris Kent moved and Barbara Dilaconi seconded, and the board voted unanimously to approve changes to the LRAP's Policies and Guidelines to allow the LRAP to help more public service attorneys. **[Exhibit 1]**

4. Special Appearances

A. Report on the 2010 American Bar Association House of Delegates meeting

Ms. Harbur reported on the 2010 American Bar Association House of Delegates meeting and presented the preliminary agenda for the American Bar Association House of Delegates 2011 mid-year meeting in Atlanta, GA. The BOG gave no specific instructions to the delegates on any resolution, although some may contact Ms. Harbur after they have reviewed Report 104C on the Criminal Justice Section's sentencing recommendations.

5. Good of the Order (Non-action comments, information and notice of need for possible future board action)

BOG Committee and OSB Group Contact Assignments 2011

	2011			2012					2013				2014				Total		
	AM	CK	GJ	BD	MN	MG	SL	AF	DJ	MOC	EK	MH	KM-P	MK	HE	TK		JB	
BOG Standing Committees																		BOG Standing Committees	
Access to Justice			x					x	x	x			x-C				x	Access to Justice	6
Appointments				x-C	x	x	x				x			x		x		Appointments	7
Budget & Finance		x-C			x	x	x		x			x			x			Budget & Finance	7
Member Services	x		x-C	x						x	x		x	x				Member Services	7
Policy & Governance		x		x	x-C	x		x				x				x		Policy & Governance	7
Public Affairs	x								x-C	x	x		x		x			Public Affairs	7
BOG Special Committees																		BOG Special Committees	
Appellate Screening	x		x				x-C		x						x		x	Appellate Screening	6
Executive Dir. Eval.		x				x-C		x				x				x		Executive Dir. Eval.	5
Public Member Select	x-C				x					x				x			x	Public Member Select	5
TOTAL BOG COM	4	3	3	3	4	4	3	3	4	4	3	3	3	3	3	3	3	TOTAL	
Special Assignments																		Special Assignments	
CSF												x						CSF	
Legal Ethics								x										Legal Ethics	
PLF (3)					x					x				x				PLF (3)	
UPL				x														UPL	
TOTAL SA	0	0	0	0	1	0	1	0	0	1	0	1	0	1	0	0	0		
OSB Committees																		OSB Committees	
Access to Justice	This was left out in 2011. Need contact for 2012.													x				Access to Justice	
Affirmative Action	x																	Affirmative Action	
Federal P&P												x						Federal P&P	
Judicial Admin									x									Judicial Admin	
Legal Services																x		Legal Services	
MCLE														x				MCLE	
Pro Bono																	x	Pro Bono	
Procedure & Practice								x										Procedure & Practice	
Public Service Adv.																		Public Service Adv.	
Quality of Life				x														Quality of Life	
SLAC													x					SLAC	
UJI-Civil															x			UJI-Civil	
UJI-Criminal											x							UJI-Criminal	
TOTAL COM	1	0	0	1	0	0	1	1	1	0	1	1	1	1	1	1	1	TOTAL	

BOG Committee and OSB Group Contact Assignments 2011

	2011			2012					2013				2014					Total
	AM	CK	GJ	BD	MN	MG	SL	AF	DJ	MO'C	EK	MH	KM-P	MK	HE	TK	JB	
OSB Sections																		OSB Sections
Administrative Law														x				Administrative Law
Admiralty											x							Admiralty
ADR																x		ADR
Agricultural Law													x					Agricultural Law
Animal Law														x				Animal Law
Antitrust, Trade Reg											x							Antitrust, Trade Reg
Appellate Practice															x			Appellate Practice
Aviation									x									Aviation
Business Law													x					Business Law
Business Litigation		x																Business Litigation
Civil Rights					x													Civil Rights
Computer & Internet										x								Computer & Internet
Constitutional Law		x																Constitutional Law
Construction Law			x															Construction Law
Consumer Law			x															Consumer Law
Corporate Counsel				x														Corporate Counsel
Criminal Law											x							Criminal Law
Debtor-Creditor			x															Debtor-Creditor
Disability Law	x																	Disability Law
Diversity	x																	Diversity
Elder Law					x													Elder Law
Energy, Telecom.								x										Energy, Telecom.
Environmental & NR												x						Environmental & NR
Estate Planning						x												Estate Planning
Family Law																x		Family Law
Government Law																	x	Government Law
Health Law				x														Health Law
Indian Law	x																	Indian Law
Intellectual Property												x						Intellectual Property
International Law													x					International Law
Juvenile Law																	x	Juvenile Law
Labor & Employment															x			Labor & Employment
Law Practice Mgt																		Law Practice Mgt
Litigation							x											Litigation
Products Liability									x									Products Liability
Real Est & Land Use													x					Real Est & Land Use
Securities Reg.								x										Securities Reg.
Sole & Small Firm																x		Sole & Small Firm
Taxation															x			Taxation
Workers Comp									x									Workers Comp
TOTAL SEC	3	2	3	2	2	1	2	2	3	2	2	3	3	2	3	3	2	TOTAL

BOG Committee and OSB Group Contact Assignments 2011

	2011			2012					2013				2014					Total
	AM	CK	GJ	BD	MN	MG	SL	AF	DJ	MO'C	EK	MH	KM-P	MK	HE	TK	JB	
Other OSB Groups																		Other OSB Groups
LRAP										x								
Legal Heritage IG																x		Legal Heritage IG
New Lawyers Div							x											New Lawyers Div
OLF					x													OLF
SPRB				x														SPRB
TOTAL	0	0	0	1	1	0	1	0	0	1	0	0	0	0	0	1	0	TOTAL
SEC/COM/GR Total	8	5	6	7	8	5	8	6	8	8	6	8	7	7	7	8	6	GRAND TOTAL

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: February 18, 2011
From: Sylvia E. Stevens, Executive Director
Re: CSF Claims Recommended for Payment

Action Recommended

Consider the following claims recommended for payments by the Client Security Fund Committee:

No. 2010-08 GINSLER (Johnson)	\$1,200.00
No. 2010-27 GINSLER (Rhodes)	\$1,200.00
No. 2010-09 La FOLLETT (Bayer)	\$50,000.00
No. 2010-12 La FOLLETT (Rutledge)	\$7,656.73
No. 2010-29 La FOLLETT (Moeser)	\$938.00
No. 2010-07 La FOLLETT (McFeters)	\$16,265.22
No. 2010-14 LONG (Becker)	\$430.00
No. 2010-22 OAKY (Richardson)	\$500.00
No. 2010-33 READ (Steck)	\$500.00
Total	\$78,689.95

Background

No. 2010-08 GINSLER (Johnson) \$1,200.00

In 2008, the Johnsons retained William Ginsler to file a Chapter 7 bankruptcy petition. Ginsler required an advance payment of \$1,200, which included funds for a credit class that debtors are required to attend. Mr. Johnson paid \$1,200 in cash. He has a receipt for the payment. Mr. Johnson could not produce and cannot recall if he signed any kind of written retainer agreement.

After considerable time had passed with no action, Mr. Johnson attempted to contact Ginsler by telephone. He left a number of telephone messages and never received a return call from Ginsler. Eventually Mrs. Johnson went to Ginsler's office, but found it locked and dark. The attorney next door said that Ginsler had closed his practice. According to Disciplinary Counsel's Office, this would have been sometime in late 2009. (The bar began receiving complaints about Ginsler in December 2009; the Johnsons filed a complaint in March 2010.)

Mr. Johnson left several more telephone messages and finally left what he describes as a "rough" message. The next day, Mr. Johnson received a call from an attorney who said he was representing Ginsler. The attorney said that Ginsler had been injured in an accident, had developed a debilitating infection, and was no longer able to represent clients. He advised Mr.

Johnson to find another attorney. Mr. Johnson asked for return of his \$1,200. The attorney told him that he would have to take it up with the bar.

Other than the numerous telephone calls, the visit to Ginsler's office, and an oral request for return of the \$1,200, the Johnsons have not pursued Ginsler for a refund. Mr. Johnson is totally disabled, Mrs. Johnson was injured in an assault and is unable to work, and they do not have resources to pursue Ginsler.

Ginsler resigned Form B in October 2010 with 11 complaints pending. In connection with the Johnsons' claim, his resignation acknowledges that the bar's investigation "may implicate" his duties of diligence, communication, and safekeeping and accounting for client funds. He also acknowledged that he may have been dishonest in connection with the representation.

Ginsler's current whereabouts are unknown. The committee recommends an award in the full amount of \$1,200 as there is no evidence that he performed any work for the Johnsons. A check on PACER did not show any Chapter 7 filing in 2008 or 2009 (although the Johnsons have filed Chapter 7 twice before). No judgment is required because Ginsler's representation of the Johnsons is part of the basis for his Form B resignation.

No. 2010-27 GIINSLER (Rhodes) \$1,200.00

Randy Rhodes hired William Ginsler in July 2009 for a Chapter 7 bankruptcy. Ginsler assured Rhodes that the petition would be filed within six weeks. Rhodes paid Ginsler \$100 at the initial consultation; between August 3 and September 29 Rhodes sent Ginsler three payments of \$400 each to complete Ginsler's quoted fee of \$1,300. After his first meeting, Rhodes heard nothing from Ginsler except for one phone call in which Ginsler said he was behind schedule due to a family crisis. By December 2009 Ginsler had abandoned his practice.

In March 2010, Rhodes wrote to Ginsler terminating the representation and demanding a refund of the entire \$1,300 he had paid. He also filed a bar complaint. Rhodes eventually hired another attorney to help with his bankruptcy. Ginsler resigned Form B in August 2010 with 11 complaints under investigation, all involving failure to communicate, charging excessive fees, and failing to maintain client funds in trust.

The committee recommends reimbursing Rhodes all but the \$100 for his initial consultation. No judgment is required because the claim is for less than \$5000 and Ginsler's resignation arose in part from his representation of Rhodes.

No. 2010-09 La FOLLETT (Bayer/Tessler/Channon) \$50,000.00

In 2005, Canby attorney Thomas La Follett was appointed personal representative of the Estate of Lewis F. Bayer, who had previously been La Follett's client and a long-time friend. On January 25, 2007, the Clackamas County Circuit Court entered a Decree of Final Distribution. The Decree provided for payments to La Follett of \$50,181.59 (\$11,214 as attorney fees and \$38,967.59 as the personal representative fee). The Decree also ordered that

\$50,000 be held back to cover the cost of preparing estate tax returns and paying outstanding taxes. The remainder of the estate was to be distributed to the heirs.

Following the entry of the Decree, the heirs heard nothing more from La Follett. In early 2009 Franklin Bayer was contacted by the Sandy Police Department, which was investigating claims that La Follett had misappropriated funds from several estates. Bayer tried to reach La Follett and learned he had moved to Idaho.¹ He then hired attorney Gary St. Louis to substitute Bayer as personal representative and assist in completing the closure of the estate. La Follett refused to deliver his file to St. Louis and reconciling the accounts was exceedingly difficult. Nevertheless, St. Louis and his client believe that La Follett failed to disclose and account for, and absconded with, at least \$100,000.

Between August 2007 and January 2009 (while he was still the personal representative), La Follett wrote checks to himself on the estate account totaling \$96,900. He also collected approximately \$8000 in rents owed to the decedent's estate. He never hired an accountant to prepare the estate tax return and no estate taxes were paid. Even allowing that some of the checks may have been for La Follett's compensation of \$50,191.59, there is still \$54,718.41 that is unaccounted for.

The CSF found this claim eligible for reimbursement, as it arose while La Follett was "acting as a fiduciary in a matter related to the lawyer's practice of law." CSF Rule 2.5.2. There is sufficient evidence of dishonesty in La Follett's withdrawal of estate funds well beyond what he was allowed in compensation and because there is no evidence that any of the excess was used for its intended purposes. The committee's conclusion was buttressed by the fact that in November 2010 La Follett pleaded guilty in Clackamas County to theft charges arising out of handling of the Bayer estate.² He will soon begin a five-year prison term and has been ordered to pay restitution to the estate.

The committee recommends waiving the requirement for a judgment. La Follett filed bankruptcy in Idaho and was denied a discharge based on the trustee's determination that La Follett had not been truthful in his disclosure statement, in part because he failed to disclose his obligations to the clients who have made claims to the CSF. At the same time, the bankruptcy judge entered a non-dischargeable judgment in favor of the bar on an earlier CSF claim (paid in 2009) and agreed to enter judgments on the remaining CSF claims once they have been resolved.

¹ La Follett had submitted a Form B resignation to the bar in October 2008 while being investigated for an unrelated trust account overdraft. This and other CSF claims were not made until early 2010 when La Follett's clients learned he had left the state and wouldn't respond to their inquiries.

² He also pleaded guilty to misappropriating the settlement of a minor client, Mercedes Nolte, who was awarded \$17,500 from the CSF in September 2009.

No. 2010-12 La FOLLETT (Rutledge) \$7,656.73

Tami Rutledge hired La Follett to represent her in an underinsured motorist claim. As part of the settlement, the insurer waived its PIP lien in the amount of \$7,656.73. La Follett advised Rutledge in May 2008 that he would remit the funds to her once he verified that there were no unpaid medical providers. Rutledge never heard any more from La Follett. In October 2008 he submitted a Form B resignation and moved to Idaho without notice to clients.

Although this case was no one for which La Follett was criminally charged, the DA's office informed me that in the course of plea negotiations La Follett admitted to misappropriating Rutledge's PIP funds and agreed to pay restitution to her.

The CSF Committee found the claim eligible for reimbursement in the amount of \$7656.73 and recommend waiving the requirement for a judgment for the reasons cited above (in the Bayer claim).

No. 2010-29 La FOLLETT (Moeser) \$938.00

David Moeser hired La Follett in June 2007 in connection with the client's acquisition and foreclosure of certain trust deeds. La Follett provided services to Moeser through October 2007 and Moeser paid each invoice as it was presented. In late 2007, Moeser put down a \$5500 advance toward future services. His last invoice, from June 2008, shows a \$938.00 trust balance. As indicated above, La Follett resigned Form B in October, leaving Moeser's legal matter unfinished. Moeser sued La Follett for malpractice and recovered more than \$139,000; no part of the settlement was allocated to Moeser's claim that La Follett converted the unearned fees.

The Committee recommends paying this claim and waiving the requirement for a civil judgment.

No. 2010-07 La FOLLETT (McFeters) \$16,265.22

Mr. and Mrs. McFeters hired Thomas La Follett in 2006 in connection with a motor vehicle accident in which they sustained injuries. The case settled for \$300,000 in spring 2007. La Follett paid himself his fee of \$100,000, disbursed \$125,000 to the clients, and held back \$75,000 to pay outstanding medical bills. The clients' Authorization to Settle provided that they would receive any discount that La Follett could negotiate with the medical providers, which was "estimated to be approximately an additional \$25,000 to client."

Following the settlement, the McFeters heard nothing from La Follett. After waiting several months they tried unsuccessfully to contact him and eventually learned he had resigned from the bar and moved to Idaho. They never received an accounting from La Follett and filed an application for reimbursement from the CSF in the full amount of \$75,000.

The committee's investigation turned up evidence that La Follett had paid \$58,734.78 to various of the McFeters' medical providers. Accordingly, the committee recommends awarding the McFeters the balance of \$16,265.22 that appears to have been misappropriated by La Follett. For the reasons discussed above, the committee recommends waiving the requirement that the claimants have a civil judgment against La Follett.

No. 2010-14 LONG (Becker) \$430.00

Warren Becker hired Michael Dell Long on November 3, 2009 to incorporate Becker's "Blue Collar Baking Company," perform trademark searches and advise on copyrights and contracts relating to the business. Becker paid \$2000 in advance toward Long's services. (Although the fee agreement recites Long's customary hourly rate of \$250, it also states that each of the specific services for Becker will be at a separate flat rate, together totaling \$3,480.)

The relationship between Long and Becker was not particularly productive and communication was sparse. Becker claims he was unable to reach Long for extended periods and toward the end of 2009, Long moved his office without notice to Becker. Long did some work on Becker's matters. On November 19, 2009 he registered Blue Collar Baking Company LLC. Thereafter, the relationship between Long and Becker was fractious and communication was sparse. Also, in January 2010 they had a lengthy meeting during which Long assured Becker he was working on the trademark and other issues, but that was the last Becker heard from him.

In April 2010 Becker fired Long and demanded a refund, which he never got. He also filed a bar complaint. During the course of the bar's investigation it was discovered that Long had withdrawn Becker's retainer funds within two days of being hired.

The committee found the requisite attorney-client relationship and loss due to attorney dishonesty. Pursuant to CSF Rule 2.2.1, in a loss resulting from a lawyer's refusal to refund an unearned fee, "dishonest conduct" includes a lawyer's "wrongful failure to maintain an advance payment in a lawyer trust account until earned."

Becker requested a refund of the entire \$2000 he paid to Long, but the Committee recommends awarding him only \$430, based on Becker's own calculations. In his April 2010 letter firing Long, Becker wrote:

"My retainer to you was \$2,000. According to my records you registered BCBC as an LLC for a flat fee of \$1070. In addition, our initial meeting on November 3, 2009 was for a flat fee of \$250. And during our meeting of January 12, 2010 we spent one hour discussing work made for hire issues, which equates to a \$250 counsel fee. At the January 12, 2010 meeting you also told me that you were not charging me for photo copies. As such, total earned monies equal \$1,570 and I am due a refund of \$430."

The committee also recommends waiving the requirement for a judgment because the amount of the claim is less than \$5000 and Long is likely to be disciplined in connection with it. (Prosecution has been authorized on two matters, including Becker's.)

No. 2010-22 OAKY (Richardson) \$500.00

Joyce Richardson suffers from chronic pain, is confined to a wheelchair and is disabled. In January 2009 she was planning to enter a residential care facility. She hired James Oakey to prepare an income cap trust to maintain her eligibility for Medicaid. Oakey agreed to do it for \$500 and Richardson paid him in cash in advance.

Sometime later Oakey gave Richardson a draft of the trust. Her caseworker reviewed it and determined it was inadequate as well as riddled with errors (including the client's name). Oakey made some revisions, but Richardson's caseworker continued to assert that the document did not meet statutory guidelines for an income cap trust. Oakey died in April 2009 without completing the work. Richardson's caseworker has since found another lawyer to prepare the trust. Richardson has agreed to pay the new lawyer \$300 from any award she receives from the CSF.

The CSF recommends payment of this claim. Richardson signed an agreement acknowledging that the fee was "due and owing on receipt," the committee does not believe that is a sufficient agreement that the fee is earned on receipt. Accordingly, the committee believes Oakey was dishonest (within the meaning of the CSF rules) for not holding the funds in trust until the work was completed. (There was no money in Oakey's trust account at the time of his death.) Moreover, the committee concluded that Oakey's legal services were "minimal or insignificant" within the meaning of Rule 2.2.3.

The committee recommends waiving the requirement for a judgment as Oakey's appears to have left no estate and it would be a hardship for the client to pursue a claim against an estate in any event.

No. 2010-33 READ (Steck) \$500.00

Shannon Steck retained Karen Read in March 2008 to defend her against a wrongful debt collection matter. Read asked for a \$500 retainer against her hourly rate of \$160, which Steck paid. Steck claims that Read did no work of any significance on her matter, was unresponsive, and ultimately abandoned the matter without notice to Steck.

CSF Rule 2.2.3 allows the Fund to reimburse a legal fee only if "the legal services that the lawyer actually provided were, in the committee's judgment, minimal or insignificant." This claim generated a lengthy discussion among committee members as to whether Read's work for the client was more than *minimal or insignificant*, or whether this claim was really a fee dispute.

Read contends she did at least six hours of work on the case in the first 24 hours after receiving the signed engagement letter from Steck, including reviewing Steck's documents and conducting online research on the creditor and its president. She also contacted the creditor's president and discussed the matter with him, followed up with a letter, then contacted Steck to relay the contents and implications of the creditor's position. Read acknowledges that she was ill during much of 2007 and early 2008 and spent only a few hours a week attending to her practice. She claims to have informed Steck of this sometime in the latter part of 2008 and advised that she would be unable to represent Steck further in the matter. Steck denies having been so advised by Read; she also denies having received anything in writing from Read that would reflect the work she did other than a single e-mail.

The committee acknowledged that, even if Read performed the services she claimed to have done, the client had nothing to "take away" at the end of the representation and that her work was of little or no value to Steck, whose matter remained unresolved. Finding this a close case, because of the small amount involved the committee recommends reimbursing Steck \$500 and waiving the requirement of a judgment. Disciplinary Counsel's Office is seeking authority to prosecute Read in connection with her representation of Steck, although the charges do not include conversion or misappropriation of client funds.

Member Correspondence re: E-mail MCLE Compliance Reports
(Read from the Bottom)

Thank you. It worked!

Richard A. Cremer
Attorney at Law
727 SE Cass Avenue
Suite 400
Roseburg, OR 97470
Phone: 541-672-1955
Cell: 541-580-6793
FAX: 541-672-1788
rcremer@rosenet.net

----- Original Message -----

From: [Sylvia Stevens](#)

To: 'Richard Cremer'

Sent: Thursday, December 09, 2010 9:58 AM

Subject: Oregon State Bar Test Message

Mr. Cremer, here is a test message about the Oregon State Bar electronic dues, MCLE and other regulatory notices.

Please note that all OSB dues and MCLE notices should have "[@osbar.org](#)" as the sender and the subject line will include your bar number.

If you need any assistance with your e-mail program rules, please feel free to contact Anna Zanolli in our IT department. She is at extension 414.

Thank you for your email. While I do not agree with the Bar's position and generally do not like email for important communications I have taken your suggestion and set up a folder for all Bar notices to be copied to. Please do me a favor and send me an email with either OSB or Oregon State Bar in the subject line and/or body so I will know if it is working. Thank you.

Richard A. Cremer
Attorney at Law
727 SE Cass Avenue
Suite 400
Roseburg, OR 97470
Phone: 541-672-1955
Cell: 541-580-6793
FAX: 541-672-1788
rcremer@rosenet.net

Member Correspondence re: E-mail MCLE Compliance Reports
(Read from the Bottom)

----- Original Message -----

From: [Sylvia Stevens](mailto:Sylvia.Stevens)
To: rcremer@rosenet.net
Cc: [Denise Cline](mailto:Denise.Cline) ; [Helen Hierschbiel](mailto:Helen.Hierschbiel) ; [Rod Wegener](mailto:Rod.Wegener) ; (e) [Stephen Piucci](mailto:Stephen.Piucci)
Sent: Wednesday, December 08, 2010 2:23 PM
Subject: RE: OSB OSB 2010 MCLE Compliance Report - Reminder - 750833

Dear Mr. Cremer:

This will confirm our recent telephone conversation about your request that the bar not send you any more e-mail notices. As I indicated, we cannot accommodate your request. The Board of Governors decided some months ago to use e-mail in formal communication with members as often as possible, both to save money and to be more sustainable in our operations.

The Supreme Court shares the Bar's view and has amended Bar Rule of Procedure 1.11 to require that all OSB members keep a valid e-mail address on record for receipt of official bar mail and notices (see attached).

For convenience, you may wish to create a rule in your inbox that will send all OSB messages to a specific folder so they are not deleted by accident. You might also wish to create a new e-mail account just for OSB mail.

I understand you believe the BOG's decision was unwise, and I will be sharing your e-mail with the BOG at its February meeting.

In the meantime, please feel free to call me if you have any questions.

From: Richard Cremer [<mailto:rcremer@rosenet.net>]
Sent: Wednesday, December 08, 2010 11:30 AM
To: OSB MCLE Department
Subject: Re: OSB OSB 2010 MCLE Compliance Report - Reminder - 750833

I was on vacation the entire month of October. When I returned to the office I had thousands of emails in my in box. As a result I deleted them all without looking at any of them. Therefore, I never got the email you reference in this notice.

Please Mail me my compliance report. DO NOT email me any more notices. I do not and will not recognize email as a valid form of communication for legal documents. The Bar's policy of sending such communications by email is ridiculous and should be stopped.

Richard A. Cremer
Attorney at Law
727 SE Cass Avenue
Suite 400
Roseburg, OR 97470
Phone: 541-672-1955
Cell: 541-580-6793
FAX: 541-672-1788
rcremer@rosenet.net

Member Correspondence re: E-mail MCLE Compliance Reports
(Read from the Bottom)

----- Original Message -----

From: [OSB MCLE Department](#)

To: rcremer@rosenet.net

Sent: Wednesday, December 08, 2010 10:57 AM

Subject: OSB OSB 2010 MCLE Compliance Report - Reminder - 750833

MCLE Compliance Report

Richard A Cremer,

Your current MCLE reporting period ends 12/31/2010. Compliance reports were sent via e-mail on October 15, 2010. All credits must be completed by midnight on December 31, 2010, and the completed, signed compliance report is due in our office no later than 5:00 p.m. on January 31, 2011. Any activities not posted to your online report should be manually added to the itemization page of your compliance report. If you have any questions, please contact the MCLE Department at 503-620-0222, ext. 368.

Please login to your [Online Account](#) to view your Compliance Report.

Thank you,
Denise Cline

Oregon State Bar | 16037 SW Upper Boones Ferry Road | Tigard, Oregon 97224

If you would like to receive your MCLE notices at a secondary e-mail address, go to www.osbar.org/secured/login.asp and log in using your bar number and password. Select Communication Preferences for Statutory Notices, and choose your e-mail.

Don't have a secondary e-mail on file?

Set up a secondary e-mail address by selecting Address Changes after you log in.



Gary Georgeff <ggeorgeff@gmail.com>

Non-delivery notice RECEIVED

<>

To: ggeorgeff@gmail.com

NOV 05 2010

Sun, Oct 31, 2010 at 11:20 AM

The message sent to:
rjn@robertneuberger.com

ROBERT J NEUBERGER

was not delivered. The following error message was generated by the server:

550 5.1.1 User unknown

The original message is attached.

*Mr. Neuberger,
I sent you this email on
Saturday 10-30-2010, but
it was rejected for some reason.
I checked your email address
and it appears correct. You
might check your filters as
you might be missing mail
from others.
Gary Georgeff*

----- Forwarded message -----

From: Gary Georgeff <ggeorgeff@gmail.com>
To: rjn@robertneuberger.com
Date: Sat, 30 Oct 2010 08:39:49 -0700
Subject: Your are out of line
Mr. Neuberger:

Your personal attacks at yesterday's HOD meeting on Timothy Farrell for presenting his resolution on the child abuse reporting laws and your personal attack on me for moving to amend it were out of line. The House of Delegates should be a civil forum, not one where one member rants against others simply because there is disagreement on the merits of an issue.

In the case of my amendment your remarks were particularly bizarre. I wrote that amendment at the request of OSB President Kathy Evans. Drafts were provided to Ms. Evans and OSB Executive Director Sylvia Stevens. It was revised several times to accommodate the concerns they expressed. Many OSB members, in my opinion the great majority, think the repetitive educational requirement on child abuse reporting is a complete waste of time. This includes members of the BOG. The problem the BOG has with trying to change it is the concern about taking a politically incorrect position with the legislature. By attacking Mr. Farrell and I you attacked dozens of people in the room. From remarks others made afterwards I know that this did not go unnoticed.

I assume you did not attend the CLE on professionalism and civility which was held that morning before the HOD meeting. If you did you apparently did not take to heart any of the concepts presented, most

<https://mail.google.com/mail/h/1einql6qlogr0/?v=pt&msg=12c0384d803d7...> 11/1/2010

notably the principle that before you make personal accusations against other attorneys you should make sure of the facts.

I cannot help but wonder if your conduct has some relation to your remarks to me before the meeting about having been in law school together. I sensed latent hostility then and it was patent from the tenor of your remarks during the meeting. I still have absolutely no recollection of ever having seen you before yesterday. If you are carrying a grudge please enlighten me as to the basis for it so I can consider whether it has any merit. If it does I will apologize. If you are not up to doing that I suggest that you will feel better about yourself if you will drop whatever has been bothering you for 30 plus years and move on.

Gary M. Georgeff

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ZANLEY F. GALTON
(RETIRED)

January 4, 2011

RECEIVED

JAN 06 2011

Oregon State Bar
Executive Director

Sylvia Stevens
Oregon State Bar
PO Box 231935
Tigard, OR 97281-1935

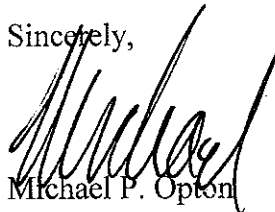
Dear Sylvia:

I am writing on behalf of the six people who comprise our firm. We want to let you know that the decision not to have a physical bar book is a terrible decision. The cost justification isn't a good enough reason. My firm would pay for a book for everybody in the firm if that was necessary.

No search feature on any web page will be adequate to provide the kind of service and quick reference that the physical book in my left hand drawer has given me for the last 30 years.

I hope you will do something about that at the next available opportunity.

Sincerely,



Michael P. Opton

MPO:sjg

Business of Law

Law Prof Links Lawyer Regs and 'Gaping Hole' in Legal Services for Middle Class

Posted Dec 1, 2010 5:30 AM CST

By [Debra Cassens Weiss](#)

A University of Illinois law professor thinks a change in lawyer regulations could help middle-class defendants who are being targeted in mass foreclosures and debt-collection suits.

The answer, says [corporate law professor Larry Ribstein](#), lies in a change in the "stranglehold" of lawyer regulations that prevent innovation and a focus on the consumer. Ribstein lays out his argument in a post at the blog [Truth on the Market](#).

Ribstein notes a [Wall Street Journal](#) story about a boom in debt-collection suits by the debt-buying industry. One debt purchaser filed 109 claims on a single day in Bronx court. Only 10 percent of the borrowers showed up for their court cases, and none had lawyers. The percentage is not all that different from industry estimates that about 94 percent of collection cases filed against borrowers result in default judgments.

Ribstein sees a "gaping hole in assistance to the middle class" and says it could be addressed with innovations such as computer-generated documents and novel ways to finance the defense of mass claims. In [his article](#) "The Death of Big Law," he gives an example. Under current licensing laws, he says, a company may sell will-making software that gives general guidance, but it can't sell a sophisticated program that can give individualized advice on particular issues.

Stories about mass debt-collections and foreclosures "raise the question of how long we will tolerate lawyer regulation that refuses to adjust to a rapidly changing business world," Ribstein writes at Truth on the Market. "Every lawyer gets the same type of costly license, is subject to basically the same set of uniform rules, but must be licensed in every state in which she practices. No legal advice may be provided by people or technology without the intervention of a licensed lawyer. Every lawyer is trained in basically the same way by one of a couple of hundred cookie-cutter law schools despite increasing diversity in the work lawyers do."

Ribstein elaborated in an interview with the ABA Journal. "I'm not suggesting that we completely deregulate the practice of law," he says. "I think the problem is not too much regulation or too little regulation, but that we're linked into a single business model that can't evolve."

Ribstein says one approach is that taken by the Legal Services Act in the United Kingdom. The law [allows outside ownership of law firms](#) and multidisciplinary firms combining law practice with nonlegal services.

Personally, Ribstein says, he would favor a legal-services regulation system based on certification rather than licensing, "but that may be too drastic to start with." In his view, a law license isn't necessarily needed to provide all kinds of legal help.

"It does not take three years of law school and passing a bar exam on various legal subjects to be able to handle discrete tasks like the ones involved in foreclosure cases," he tells the ABA Journal. "We need a greater variety of people who are able to deliver the array of services that we refer to as legal services."

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Your ABA

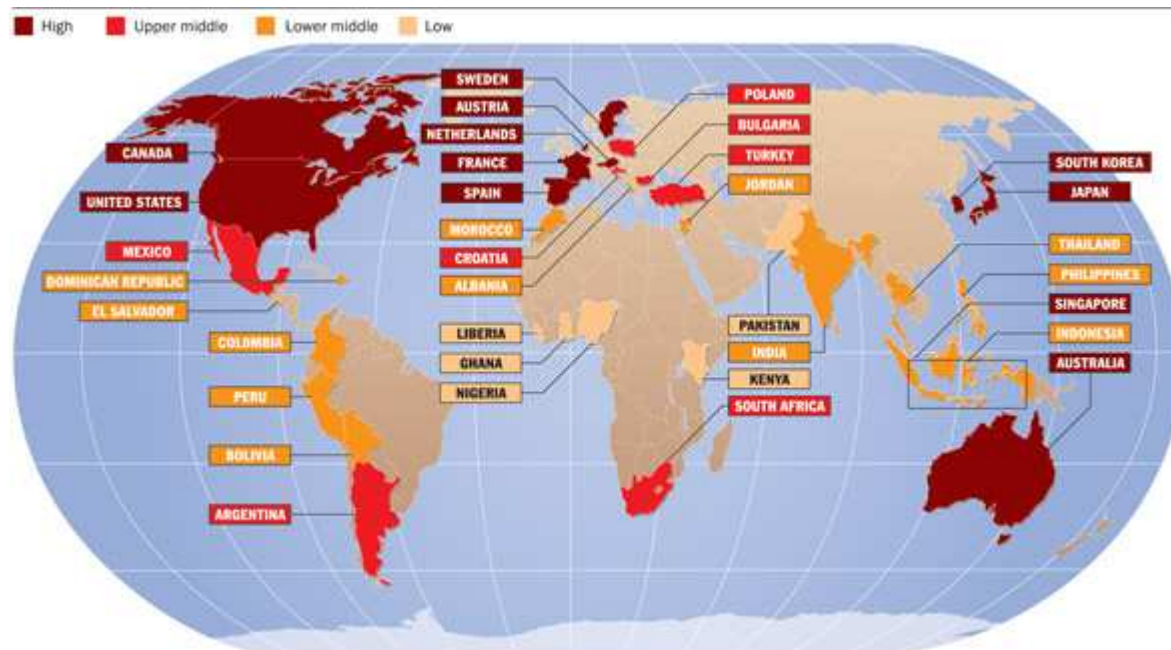
U.S. Lags Behind Other Wealthy Nations in Rule of Law Index

Posted Dec 1, 2010 12:22 AM CST

By [James Podgers](#)

Preliminary versions of the Rule of Law Index already had signaled that its final report would not be encouraging for the U.S. justice system. But the results in the official version of the index released Oct. 14 still paint a surprisingly stark picture of this country's standing compared with other advanced nations when it comes to incorporating principles of the rule of law.

The report, produced by the World Justice Project—a 3-year-old initiative sponsored by the ABA and a number of other organizations representing various disciplines—indicates that the United States lags behind other highly developed nations on all but one of nine key measures of adherence to the rule of law.



The findings for each country in the index are based on surveys of some 1,000 residents in its three largest cities, as well as input from experts in the law and other disciplines.

The index was released at briefings in Washington, D.C., where leaders of the World Justice Project described it as an important new tool for measuring the extent to which different nations adhere to the rule of law and

Source: The World Justice Project

Countries Grouped by Income Level

identifying areas where they can focus efforts to improve.

“This kind of tool is most important,” said Ellen Gracie Northfleet, a former chief justice of Brazil who serves on the World Justice Project’s board of directors. “We can exchange our intuitive knowledge of what’s wrong and right with measurable data.”

The project is a multidisciplinary effort to strengthen the rule of law around the world. It was founded by William H. Neukom of San Francisco, who served as ABA president in 2007-08. In addition to producing the index, the project sponsors outreach meetings worldwide, provides seed grants for on-the-ground programs and supports new scholarship efforts in the field. The project originally operated with extensive logistical and staff support from the ABA but is now an independent not-for-profit corporation.

WE'RE NOT NO. 1

Every major region of the world is represented in the index. Peer groups of nations are categorized in the study on the basis of income level and region, but not form of government. The United States is part of the 11-nation high-income group and seven-nation Western Europe and North America regional group.

The good news for the United States is that it ranks no lower than 11th among the 35 countries covered by the index on any of nine key principles. However, when compared with its high-income and regional peers, the United States ranks at or near the bottom in nearly all of those categories. The other nations that make up the high-income group are Australia, Austria, Canada, France, Japan, the Netherlands, Singapore, South Korea, Spain and Sweden. The Western European nations and Canada are included in the regional group with the United States.

Seven of the 11 nations in the high-income group rank in the top three on at least one of the rule of law factors identified by the World Justice Project. At the top is Sweden, which received eight top-three rankings, followed by the Netherlands (seven), Austria (five), Japan (three), Singapore (two), and Australia and the United States (one each).

Significantly, the United States ranks last within both its income and regional groups on providing access to civil justice, which the index measures primarily on the basis of whether citizens believe they can bring their cases to court and whether representation by lawyers and other legal professionals is available and affordable.

Those rankings are reinforced by the scores that the United States received for access to justice in both civil and criminal cases. Using a formula that identifies specific elements of access to justice, the index produced a score for each country, ranging from a low of 0 to a high of 1. Each country received a score for every one of the nine rule of law factors.

The United States received a score of 0.66 for access to justice—the lowest score for any country in the high-income group. The next lowest score was 0.68, for both France and Japan. The highest access score was 0.83, received by both Singapore and Sweden. The average score for access was 0.76. The United States scored farther below the average among its peer countries for access to justice than for any other rule of law factor. And a few countries in other income groups—including Colombia, Poland, South Africa, Thailand and Turkey—had scores just below the United States.

Those findings from the Rule of Law Index come as one more dose of bad news for a U.S. justice system already being pummeled by the Great Recession. Access to civil justice services already is a growing concern in the United States as recessionary pressures have caused many states to reduce funding for their court systems. In some jurisdictions, courthouses have been closed, or hours cut back and trials limited. Meanwhile, the Legal Services Corp. uses data from the most recent U.S. census to estimate that nearly 57 million Americans—the highest number ever—now qualify for assistance from local legal aid programs. (The LSC supports those programs with funding from Congress.) Other studies estimate that legal aid offices and pro bono efforts by private attorneys meet only about 20 percent of the civil legal needs of poor Americans.

In one of his first actions after becoming the ABA's new president in August, Stephen N. Zack appointed a Task Force on the Preservation of the Justice System to focus on how the recession is affecting access to justice for Americans. "Overall, the U.S. legal system is among the very finest in the world, and many others look to our legal system when it comes to best practices in their own countries," says Zack, who is administrative partner at Boies, Schiller & Flexner in Miami. "But the index points to the fact that we have much important work to do, including in the area of making our legal system more accessible to people of all walks of life."

Meanwhile, efforts to gain recognition for the principle that every person is entitled to representation by a lawyer in civil cases where basic human needs are at stake have sputtered. To date, no state legislature or court has recognized a sweeping right to counsel in civil cases, although 14 states have begun to look at how such a guarantee might be implemented. In August, the ABA House of Delegates, which in 2006 endorsed a right to counsel in vital civil cases, adopted two measures that together provide a road map for creating programs that would make state-funded legal counsel available to qualifying low-income people.

HELPING COUNTRIES HELP THEMSELVES

Because the rule of law index is primarily statistical in nature, it does not analyze the causes of each country's performance on the rule of law factors. "While the index is helpful to tracking the 'temperature' of the rule of law situation in the countries under study," the report states, "it is not powerful enough to provide a full diagnosis or to dictate concrete priorities for action. No single index can convey a full picture of a country's situation. Rule of law analysis requires a careful consideration of multiple dimensions—which vary from country to country—and a combination of sources, instruments and methods."

At the briefing that was held to announce the release of the index, William C. Hubbard, chair of the World Justice Project, said, "Everyone in this room wants progress and a stronger rule of law, but we're not here with a one-size-fits-all approach to improving the rule of law." Rather, the purpose of the index is to produce data to help each country identify areas for possible reform, said Hubbard, a partner at Nelson Mullins Riley & Scarborough in Columbia, S.C., who is immediate-past chair of the ABA House of Delegates.

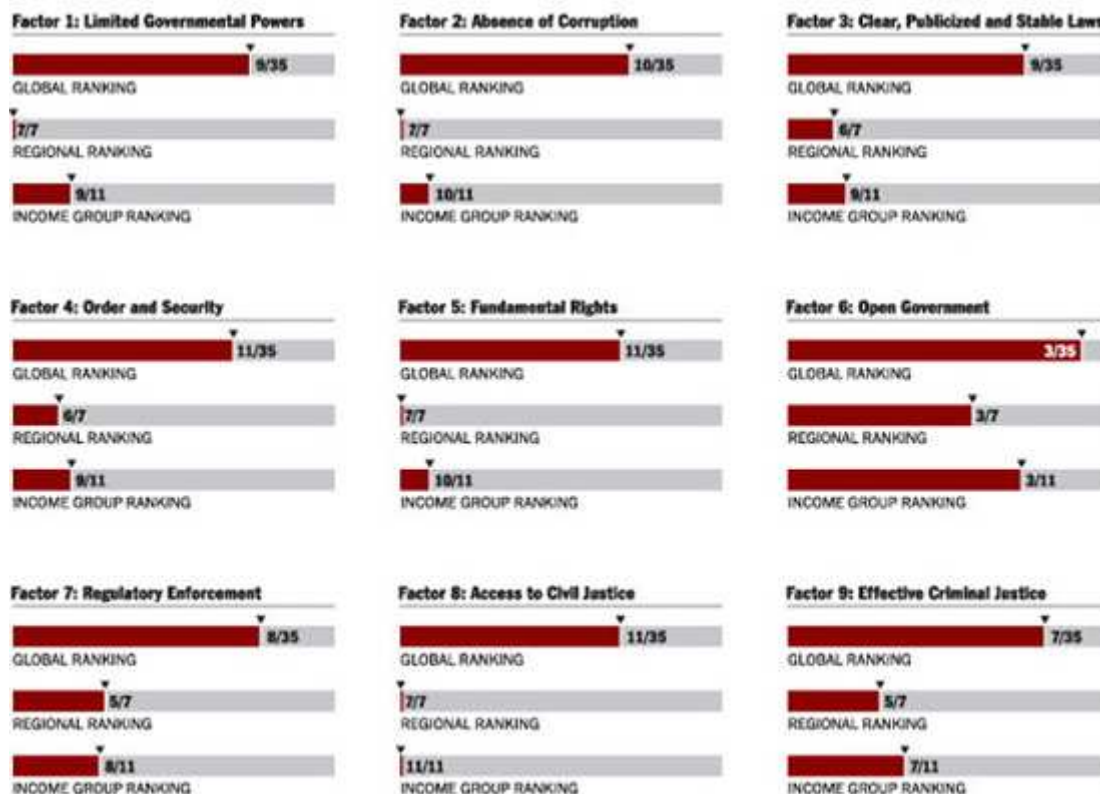
Other representatives of the World Justice Project said the index is an important addition to rule of law studies because it seeks to measure specific elements that define the rule of law on the basis of how they actually apply to the real lives and

experiences of people in various countries. “Ultimately, the rule of law isn’t about numbers; it’s about people,” said Juan Carlos Botero, project director for the index.

Botero and Hubbard said the Rule of Law Index released in October will be followed by expanded versions issued on an annual basis. The index should cover 70 countries in 2011 and 100 countries—covering more than 95 percent of the world’s population—by 2012. Publishing the index on an annual basis also will help countries track progress in efforts to bolster rule of law measures.

The ability to “benchmark” progress is an important feature of the index that will help foster “a new mentality,” said Northfleet. “What gets measured gets improved.”

Where the United States Ranks



* This report summarizes the findings of the WJP Rule of Law Index in the three largest urban centers in each country. Source: The World Justice Project

The U.S. ranks favorably on nine rule of law factors compared to all the nations in the Rule of Law Index, but it still ranks below most of the other nations in its regional and income groups. Lower numbers within each category signify a higher level of adherence to the rule of law.

The Nations at the Top

Factor	Rank	Country	Region
Factor 1: Limited Governmental Powers	1	Sweden	Western Europe & North America
	2	Netherlands	Western Europe & North America
	3	Australia	East Asia & Pacific
Factor 2: Absence of Corruption	1	Sweden	Western Europe & North America
	2	Netherlands	Western Europe & North America
	3	Austria	Western Europe & North America
Factor 3: Clear, Publicized and Stable Laws	1	Sweden	Western Europe & North America
	2	Netherlands	Western Europe & North America
	3	Japan	East Asia & Pacific

Sidebar

Formula for Measuring the Rule of Law

The Rule of Law Index seeks to measure a nation’s adherence to rule of law principles by focusing on nine key factors:

Limited governmental powers. What constitutional and institutional boundaries exist for governmental powers, and to what extent are government officials and agents held accountable under the law? Are there other checks on governmental powers, such as a free and independent press?

Absence of corruption. Do government officials—including police, the military and the judiciary—largely refrain from such things as bribery, improper influence from public or private interests, and misappropriation of public resources?

Clear, publicized and stable laws. Are laws written and disseminated in a way that helps the public understand them?

Order and security. How secure are people and property, particularly in the context of crime, terrorism and political violence? To what extent is the use of violence an acceptable means to redress personal grievances?

Fundamental rights. Does the government recognize core human rights by recognizing equal protection under the law; freedom of thought, religion and expression; freedom of association; the right of privacy; and rights of the accused? Are there prohibitions against forced and child labor, as well as limits on retroactive application of criminal laws?

Open government. Is the lawmaking process open to the public, and does it provide opportunities for diverse viewpoints to be heard?

Regulatory enforcement. Are administrative proceedings open to the public, and are regulations enforced with an absence of improper influence by public officials or private interests? To what extent does the government take private property without adequate compensation?

Access to civil justice. Are citizens able to resolve their personal grievances without resorting to violence or self-help? Are citizens aware of the remedies available to them, and is affordable legal advice available to them? Are there excessive fees and procedural barriers to courts and other dispute resolution mechanisms?

Effective criminal justice. Is there a system in place capable of investigating and adjudicating criminal cases effectively and impartially, and are rights protected?

Source: The World Justice Project

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The Washington Post

Prison reform: A smart way for states to save money and lives

Advertisement

By Newt Gingrich and Pat Nolan
Friday, January 7, 2011;

With nearly all 50 states facing budget deficits, it's time to end business as usual in state capitols and for legislators to think and act with courage and creativity.

We urge conservative legislators to lead the way in addressing an issue often considered off-limits to reform: prisons. Several states have recently shown that they can save on costs without compromising public safety by intelligently reducing their prison populations.

We joined with other conservative leaders last month to announce the Right on Crime Campaign, a national movement urging states to make sensible and proven reforms to our criminal justice system - policies that will cut prison costs while keeping the public safe. Among the prominent signatories are Reagan administration attorney general Ed Meese, former drug czar Asa Hutchinson, David Keene of the American Conservative Union, John Dilulio of the University of Pennsylvania, Grover Norquist of Americans for Tax Reform and Richard Viguerie of ConservativeHQ.com. We all agree that we can keep the public safe while spending fewer tax dollars if we spend them more effectively.

The Right on Crime Campaign represents a seismic shift in the legislative landscape. And it opens the way for a common-sense left-right agreement on an issue that has kept the parties apart for decades.

There is an urgent need to address the astronomical growth in the prison population, with its huge costs in dollars and lost human potential. We spent \$68 billion in 2010 on corrections - 300 percent more than 25 years ago. The prison population is growing 13 times faster than the general population. These facts should trouble every American.

Our prisons might be worth the current cost if the recidivism rate were not so high, but, according to the Bureau of Justice Statistics, half of the prisoners released this year are expected to be back in prison within three years. If our prison policies are failing half of the time, and we know that there are more humane, effective alternatives, it is time to fundamentally rethink how we treat and rehabilitate our prisoners.

We can no longer afford business as usual with prisons. The criminal justice system is broken, and conservatives must lead the way in fixing it.

Several states have shown that it is possible to cut costs while keeping the public safe. Consider events in Texas, which is known to be tough on crime. Conservative Republicans joined with Democrats in adopting incentive-based funding to strengthen the state's probation system in 2005. Then in 2007, they decided against building more prisons and instead opted to enhance proven community corrections approaches such as drug courts. The reforms are forecast to save \$2 billion in prison costs over five years.

The Lone Star State has already redirected much of the money saved into community treatment for the mentally ill and low-level drug addicts. Not only have these reforms reduced Texas's prison population -

helping to close the state budget gap - but for the first time there is no waiting list for drug treatment in the state. And crime has dropped 10 percent from 2004, the year before the reforms, through 2009, according to the latest figures available, reaching its lowest annual rate since 1973.

Last year we both endorsed corrections reforms in South Carolina that will reserve costly prison beds for dangerous criminals while punishing low-risk offenders through lower-cost community supervision. The legislation was a bipartisan effort with strong support from liberals, conservatives, law enforcement, the judges and reform advocates. The state is expected to save \$175 million in prison construction this year and \$60 million in operating costs over the next several years.

Some people attribute the nation's recent drop in crime to more people being locked up. But the facts show otherwise. While crime fell in nearly every state over the past seven years, some of those with the largest reductions in crime have also lowered their prison population. Compare Florida and New York. Over the past seven years, Florida's incarceration rate has increased 16 percent, while New York's decreased 16 percent. Yet the crime rate in New York has fallen twice as much as Florida's. Put another way, although New York spent less on its prisons, it delivered better public safety.

Americans need to know that we can reform our prison systems to cost less and keep the public safe. We hope conservative leaders across the country will join with us in getting it right on crime.

Newt Gingrich was speaker of the House from 1995 to 1999 and is the founder of American Solutions. Pat Nolan was Republican leader of the California State Assembly from 1984 to 1988 and is a vice president of Prison Fellowship, a Christian ministry to prisoners, ex-prisoners and their families that also works on justice reform.

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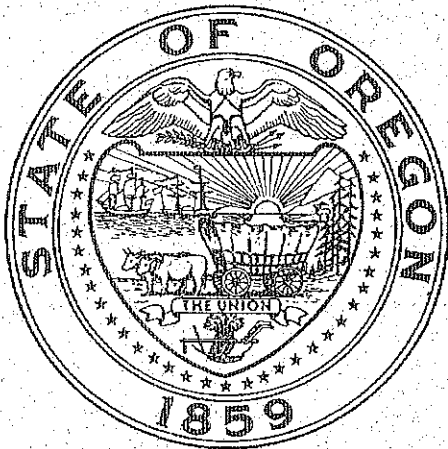
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STATE OF THE OREGON COURTS
*Finding Opportunity in Crisis —
Re-engineering Oregon's Courts*

CHIEF JUSTICE PAUL J. DE MUNIZ
ADDRESS TO THE SALEM CITY CLUB
JANUARY 7, 2011

A handwritten signature in black ink, appearing to read "P. J. De Muniz". The signature is stylized and written over a faint, circular watermark or ghost image of the seal.



Introduction

Good afternoon. Members of the Legislature, my judicial colleagues, members of the City Club, members of the Bar, distinguished guests, ladies and gentlemen ... thank you for being here today.

I want to thank the Salem City Club and the Marion County Bar Association (of which I have been a member for more than 30 years) for co-sponsoring this event and again providing the venue for me to speak to Oregonians about the state of their courts. As we have done in the previous four years, my remarks are being streamed live to each courthouse in Oregon so that every Judicial Department employee and judge in this state has the opportunity to watch and listen to my remarks along with you.

Before I begin my prepared remarks, I want you to know that in recognition of the ongoing state budget reductions, my speech to you today will be 20 percent shorter than last year's address — I hope that's enough!

On a serious note, I would like to welcome Justice Jack Landau to the Oregon Supreme Court. Justice Landau already has had a distinguished career on the Oregon Court of Appeals, and his election to the Supreme Court makes a splendid addition to our bench. I also would like to welcome Oregon's newest judge, Judge Lynn Nakamoto of the Oregon Court of Appeals, who was sworn in just three hours ago.

Also, although Governor Kulongoski could not be here today, I would like to acknowledge and thank my former colleague for his steadfast support of the Judicial Branch during his two terms as governor. Governor Kulongoski's support for the Judicial Branch in this state has no parallel in any other state, and he has appointed many quality people to the bench during his administration. My thanks are not just because of his service in the Judicial Branch or in all three branches of government, but because his actions reflect his understanding and honoring of the unique and critical role of each branch. Please join me in recognizing our governor for his service to all Oregonians.

Status of 2010 State of the Courts

Let me begin my formal remarks by updating my report from last year. I said then that the courts had been weakened by budget reductions and furloughs. That remains true — we cut an entire division from the Office of the State Court Administrator, and we have no staff to develop and monitor performance measures or support our proven and innovative programs such as drug courts. Today we are a weaker branch of government.

I said then that the courts of the future would rely on technology to remain open and accessible to Oregonians. I am pleased to report that our Oregon eCourt program has been implemented for small claims and landlord-tenant cases in five pilot courts, and those courts have processed nearly 35,000 cases in electronic files. That means we have not had to store, locate, retrieve, and continually update a stack of paper files that would measure about 720 feet tall — which is more than four times the height of our State Capitol. Now we are negotiating with a technology company to bring Oregon eCourt to all trial courts in the state.

I said then that we must maintain our civil justice system. Civil case filings have increased since my last report, and our two initiatives implemented to expedite civil jury trials and to put our most experienced judges on complex civil cases are up and running.

I emphasized then the need for adequate courthouse facilities. All of the courthouse safety and health improvements funded by the last legislature are underway, and today I regrettably am missing the groundbreaking for a new courthouse in East Multnomah County — a project years in the making, and one that will make justice more accessible there.

I also talked then about the need for better communication and collaboration among the three branches of government. I am very pleased to tell you that your elected officials in the Legislative and Executive Branches responded to that call. We have transformed the conversation about the Judicial Branch budget from 'what can we cut?' into 'what must we fund?' As I will elaborate later, maintaining those relationships between our branches in the months and years ahead will be critical for all Oregonians.

And finally, I pledged then to a process of open courts management, where courts are accessible, where they are transparent in their functioning, where they are accountable, and where they are engaged with the public they serve. We have been true to that promise.

State of the Courts in 2011

So let me now turn to the new year. As we now know, the budget crisis that presented itself in 2009 and 2010 has evolved into a decade of budget deficits. The responses that Oregon had for a short-term budget crisis — unpaid furloughs for staff, not filling vacant positions, and cleaning out savings accounts — do not work to address long-term issues.

Last summer I visited all 27 judicial districts in this state in an effort to speak to as many of our employees and judges as possible. I wanted them to hear from me directly — face-to-face, on as personal a level as possible — how I view this crisis. I explained to them — as I will try to clearly and concisely explain to you now — the strategy and the vision that our branch of government has employed and will employ in the future to deal realistically with the state government funding crisis that plagues us now and will plague us, in my view, for the rest of this decade.

As I did in each of those courthouse visits — whether I was talking to three employees in Wallowa County, or one hundred in Multnomah and Washington Counties — I again want to acknowledge and thank all of our employees and judges throughout the state for the extraordinary effort that they deliver day in and day out to maintain an open and accessible justice system for Oregonians. A justice system that unlike a number of other states across the country is open eight hours a day, five days a week. And one that deals, every day, with seemingly intractable human problems that require a timely resolution, be it a child needing immediate protection, a family in crisis, the ravages of drug use and crime, or enforcing economic and property rights.

What the Judicial Department employees throughout this state have done this last year to provide timely justice for Oregonians is truly remarkable. Although they have the same number of unpaid furlough days as the Executive Branch, your state courts are open every business day. There are no statewide closure days in the Judicial Branch of government — we are open and accessible.

As proud as I am of the remarkable dedication our employees have demonstrated, my personal visits to all those courts has convinced me that our branch of government is now at the tipping point. I know from my visits that our employees are stretched to the limit and in some cases beyond.

Having fewer staff has forced courts throughout this state to reduce public service hours, including here in Marion County. Clerks cannot spend as much time helping people find the correct form or fix mistakes. Lines at our counters are longer, and errors are starting to creep in.

In addition, judgments and warrants are taking longer to enter. Why is that important? Timely entry of arrest warrants is important because in many cases warrants are what give police the legal authority to take a wanted person into custody. And if a warrant is not removed promptly, then someone might be arrested for an invalid reason, which results in an unnecessary invasion of privacy for the person involved, and which could result in a costly lawsuit against a police agency — creating yet another burden on taxpayers. If a judgment creating a lien on property has been signed but not entered, then people buying property are not aware of encumbrances on that property and creditors are not able to collect their legally-established debts.

These are just a few of the hidden — and sometimes not-so-hidden — costs of our current budget reductions.

In the Judicial Branch we recognized some time ago that our state government likely would face dramatic budget deficits for some time. In response, our branch formed the Court Re-engineering and Efficiencies Workgroup, or CREW (because — as you know — everything in government needs an acronym). Its task — to re-engineer our court system by identifying alternatives that will dramatically increase efficiencies and allow courts to operate on less revenue, while maintaining or improving the delivery of judicial services.

CREW's first step was to survey all judges and staff for ideas on what we can do better, or stop doing all together. We received 1,400 suggestions — I read every one of them. A number of those suggestions already have been implemented.

Our next step in re-engineering our court system was to ask hard questions of ourselves about what we do, why we do it, and how we do it. We are looking carefully at our administrative structure, our case management, and the statewide use of our judicial resources — our judges. We are critically examining the traditions, the culture and the processes that we have developed — or have accepted — for more than 150 years. That is not an easy undertaking for an institution that believes in following precedent, the rule of *stari decisis*, and that has a commitment to respond to the needs of individual communities.

Instead of wringing our hands and focusing on this fiscal drought only as a crisis, our branch of government has chosen a different path. We have chosen to embrace our circumstances as an opportunity to improve our productivity and efficiency. I will provide a report to the governor and to the legislature when it convenes in February on our re-engineering efforts, which are focused on four strategic areas:

1. **Centralization:** We are looking at how we can save time and money by processing our payables, collections, traffic citations, and jury management functions centrally instead of through 27 separate judicial districts.
2. **Regionalization and Statewide Use of Judicial Resources:** We are breaking down artificial barriers created by county lines. Through technology, available judges in any part of the state should be able to handle many kinds of cases and hearings in any other part of the state. And, through our new Oregon Complex Litigation Court, judges experienced in civil litigation can be assigned complex civil cases without regard to the county in which the case is filed. In other words, we are now bringing the judge to the case, not restricting the handling of cases to the bench in the county in which it was filed. We also are looking at increased use of video arraignments, and centralizing the adjudication of prisoner post-conviction lawsuits.
3. **Leveraging Technology:** We currently are expanding our use of electronic notices instead of paper copies, transmitting voluminous child welfare reports to judges and citizen volunteers electronically, and transmitting case files electronically when cases are appealed. We are working with the Oregon State Police so they can electronically file thousands of traffic citations throughout the state.
4. **Redistricting and Venue:** We are studying whether we can reconfigure our judicial districts to maximize judicial resources, personnel management and staffing, and the delivery of trial court services.

In assessing these options, we are looking through the lens of the litigant, and use four guiding principles. Successful ideas must:

- Promote convenience for litigants;
- Reduce the cost and complexity of judicial processes;
- Maintain or improve access to justice; and
- Improve case predictability for litigants.

However, the efficiencies and technology-related changes that I have just described are only minor and interim steps to having the first-in-the-country statewide electronic court system — Oregon eCourt. When fully implemented, the public will be able to access any Oregon court, 24 hours a day, seven days a week. Cases will be filed electronically, and court staff and judges will work with paper only when they need to. Our courts no longer will need to create, maintain, and store the millions of pages of paper that is part of our annual workload.

In addition, fees and fines can be paid online, case documents and schedules will be available online, and our judges will have comprehensive and up-to-date information in making critical decisions about the individuals and families appearing before them.

This is just a glimpse of what our future can be, as we move our trial courts into the web-based world of today's technology environment that now is commonplace in much of the private sector. However, we must have Oregon eCourt available in order to implement not only these changes, but many of the cost-saving re-engineering concepts that I have described to you. And that leads me back to the working relationship among the branches of government.

The future not only of Oregon eCourt but literally our entire system of justice rides on the policy and budget decisions that are going to be made by the Legislative and Executive Branches starting next week, as the governor and legislature begin to balance the state budget, as required by the state constitution.

In my view, it is time for all three branches of government to be fully engaged in this process of defining the priorities of this state.

Thus far, all three branches of government have held positions vacant and called them savings instead of service reductions. We have cleaned out the cupboards, swept the change from under the cushions, and thinned the soup. We have accepted gifts from Uncle Sam, who no longer can afford to be as generous with us.

We have taken across-the-board reductions that treat all programs and services equally.

Those might be appropriate actions to address a small-scale or short-term budget problem, but in my view it begs the question when you are looking at a decade of deficits.

At this time, the Legislative Branch has enhanced its ability to fulfill its constitutional role by receiving voter permission to meet in annual sessions. The Executive Branch has worked on agency transformation projects and is proposing to re-set state government. And as I have described, the Judicial Branch is re-engineering itself.

Now is the time for the leadership in each branch of government in this state to come together, to identify and to agree on the irreducible core functions of our state government, to establish a budget consistent with those core functions, and then manage each branch to achieve those policy outcomes.

Let me make two final points about why the Legislative and Executive Branches should view the adequate funding of the Judicial Branch at the same priority as the education of our children, the health of our children and families, and the public safety of our communities.

First, of course, there is a legal argument. We need to avoid being in the same situation as the State of New Hampshire, where a group of unrelated litigants is suing the legislature to restore funding to the courts so they can get their individual cases decided in a timely manner.

Although courts have inherent power to compel certain actions by the legislature, the Oregon legislature should not cast its fate to the wind and put the Judicial Branch in the position of having to decide for itself whether it has been funded at constitutionally

adequate levels. That situation is an invitation to constitutional chaos, and can easily be avoided.

BOG Default Agenda

My second point is a more practical one. Courts should have funding priority because courts stand at the intersection of every important social, political, and legal issue in this state.

If you are a student of Oregon history, you might know that many of the hallmark laws that define our state — public beaches, the bottle bill, land use planning — all are in place today because they were upheld by the courts.

If you are an education advocate, you know that in 2009 a group of school districts came to the courts asking whether the Oregon Constitution required the legislature to fund K-12 education at a specific, mandated level.

If you are interested in human services, you know that no child is placed in foster care or returned to his or her family without a court's permission, and that courts oversee appointment of guardians and conservators for those unable to fully care for themselves.

If you are interested in public safety, you know that every day courts in Oregon protect victims of stalking and domestic violence, turn lives around in drug courts, and enforce the rights of crime victims and criminal defendants as they adjudicate and sentence people who violate the law.

February 18, 2011

And if your priority is economic development, courts enforce economic and property rights every day as they establish legal authority to collect debts, interpret contracts, and regulate transactions between businesses and consumers.

If it's the state budget you care about, you know that any savings in the Public Employee Retirement System must meet constitutional standards. And currently, tens of millions of dollars hang in the balance in a case now pending in the Oregon Supreme Court that will determine whether the State is entitled to receive a portion of a very large punitive damage award against a tobacco company.

Both of those points compel the conclusion that Oregon must return to the practice of having its policy dictate the budget, and not having the budget establish Oregon policy.

It is not a question of how much justice we can afford. Providing justice completely and without delay is the constitutional policy of this state, and our elected leadership must provide a budget sufficient to carry out that constitutional mandate.

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I stand before you today to pledge the best efforts of all of the judges and employees of this branch of government to make the best use of the resources given to us to serve Oregonians, and to continue to build and maintain the public's confidence in our state courts.

Thank you.

MINUTES

BOG Access to Justice Committee

Meeting Date: November 13, 2010
Location: Timberline Lodge
Chair: Gina Johnnie
Vice-Chair: Maureen O'Connor
Members Present: Gina Johnnie, Maureen O'Connor, Derek Johnson, Karen Lord, Audrey Matsumonji, Mitzi Naucler,
Members Absent: Ken Mitchell-Phillips
Guests: None
Staff Members: Kay Pulju

ACTION ITEMS

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|---|
| 1. Topic: Approved minutes of the July 16, 2010, committee meeting. |
| 2. Topic: Discussion of request for reallocation of funds that are administered and distributed by the OSB Legal Services Program and delegate authority to the Legal Services Program Manager.

Action: Approved. |
| 2. Topic: Discussion of to language in the OSB Legal Services Program Standards and Guidelines regarding peer review process.

Action: Approved. |
| 3. Topic: Discussion of Pilot project involving RIS participation in an American Bar Association (ABA) and Department of Labor (DOL) program for referring clients with issues concerning the Family and Medical Leave Act (FMLA) and Fair Labor Standards Act (FLSA).

Action: Approved. |

INFORMATION ITEMS

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| 4. Topic: None |
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MINUTES

BOG Access to Justice Committee

Meeting Date: January 7, 2011
Location: Oregon State Bar
Chair: Kenneth Mitchell-Phillips
Vice-Chair: Gina Johnnie
Members Present: Maureen O'Connor, Hunter Emerick, Tom Kranovich, Jenifer Billman
Members Absent: Kenneth Mitchell-Phillips, Derek Johnson
Guests: Chris Kent, Ethan Knight, Matthew Kehoe
Staff Members: Judith Baker, Cathy Petrecca, George Wolff, Helen Hirschbiel, Amber Hollister

ACTION ITEMS

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|--|
| 1. Topic: Approved minutes of the November 13, 2010 meeting. |
| 2. Topic: Discussion of the Lawyer Referral Service and possibility of becoming percentage fee model.

Action: Helen Hirschbiel will ask the Legal Ethics Committee to put a rule together that consists of language that allows for a percentage fee based Lawyer Referral Service model. |

INFORMATION ITEMS

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|---|
| <p>Topic: Staff gave an overview of the bar committees and other organizations that interface with the Access to Justice Committee. The bar committees and organizations discussed were as follows:</p> <ul style="list-style-type: none">• Legal Services Program Committee• Pro Bono Committee• Loan Assistance Repayment Program• Oregon Law Foundation• Campaign for Equal Justice• Public Service Advisory Committee |
|---|

Minutes

Budget & Finance Committee

November 12, 2010
Timberline Lodge
Government Camp, Oregon

Present - Committee Members: Chris Kent, chair; Mike Haglund; Karen Lord; Mitzi Naucler; Maureen O'Connor. **Other BOG Members:** Kathy Evans. **Staff:** Sylvia Stevens; Helen Hirschbiel; Susan Grabe; Rod Wegener.

1. Minutes – September 24, 2010 Committee Meeting

The minutes of the September 24, 2010 meeting were approved.

2. Financial Report – October 31, 2010

Mr. Wegener reported the preliminary October statements indicated a net revenue slightly over \$700,000. This is an unusually high net revenue this late in the year as is the small net revenue for October. Lower expenses across most programs/departments is the primary reason for the healthy bottom line. As stated before, the net revenue declines in the last quarter of the fiscal year and Mr. Wegener expected the net revenue to end about \$300,000 for 2010, an amount still well above the budgeted \$140,085 net revenue.

3. Section Requests for a Dues Increase

Mr. Wegener reported the current practice allows “the CFO the authority to approve the budget and dues increase” of a section if it is acting under certain conditions. Mr. Wegener reported the three sections asking for a dues increase were operating under those conditions and the dues increases were approved for the Computer & Internet Law, Government Law, and Real Estate & Land Use sections.

4. 2011 OSB Budget Report

The committee reviewed the report of the 2011 OSB budget on the BOG agenda and took the following actions:

Recommend that the fee for the New Lawyer Mentoring Program be \$100.00 for each participant and the fee is collected at the close of the second year.

Recommend there be no outright grant by the bar to the Diversity Convocation. However, the bar will advance up to \$11,000 for costs related to reserving space and other financial commitments that must be made soon. The bar also will provide all in-kind services related to the administration of the conference such as what the bar’s CLE Seminars and the Design Center have provided so far.

Recommend there be no change in the budget for the reimbursement of expenses of the OSB’s delegates to the ABA conventions.

Recommend approval of the 2011 OSB budget with the changes noted above.

5. Updates on Tenant and Lease at the Bar Center

Mr. Wegener reported there was no new information other than what was included on the committee meeting agenda.

6. Next committee meeting

The next meeting will be January 7, 2011 at the bar center. Two items expected on the agenda are the next report on sections' 2011 budgets and information from Legal Services about policy development on unclaimed property recently conveyed to the bar and legal services.

Minutes
Budget & Finance Committee

January 7, 2011
Oregon State Bar Center
Tigard, Oregon

Present - Committee Members: Chris Kent, chair; Steve Larson; Hunter Emerick; Michelle Garcia; Mitzi Naucler. **Other BOG Members:** Tom Kranovich; Maureen O'Connor. **Staff:** Sylvia Stevens; Helen Hierschbiel; Susan Grabe; Rod Wegener.

1. Minutes – November 12, 2010 Committee Meeting

The minutes of the November 12, 2010 meeting were approved.

2. Changes to the Bar's Investment Policy

The Committee met by telephone with representatives of Washington Trust Bank who shared the rationale for the changes proposed in the letters on the Committee agenda. The bank representatives explained the rationale for the market neutral strategy and stated it already uses specific mutual funds for other clients for the small cap international equities and the emerging market fixed income classes proposed by the bank. In each case, the investment would not exceed 2-1/2% to 3% of the total portfolio.

The Committee resolved to approve the Small Capitalization International Equities and the Emerging Markets Fixed Income as investment classes in the bar's investment policy. The Committee did not approve the use of the Goldman Sachs Hi-Yield Fund as an investment option. The Committee also did not approve the bank's recommendation that the bar's policy add "Investment in Securities with a rating of A- or lower shall be limited to 10% of the account's value."

The Committee also instructed the bar's CFO to notify the two investment managers of the bar's intent to withdraw \$200,000 from each portfolio during 2011 as part of the funding for the online access to BarBooks for all active members.

3. Lawyer Referral Percentage Fee

The Committee discussed the implications of the percentage fee program for lawyer referral. With changes to current sources of non-dues revenue, the Committee understood the need for the bar to raise new or additional non-dues revenue in future years. The Committee understood the program as it currently exists generates a net expense of \$275,000 to \$315,000 a year. The current consensus is the program should at least break-even on an annual basis and the Committee will consider options to move the program in that direction at future meetings.

4. Fee for Inactive Member Subscription to BarBooks and Fastcase

The Committee resolved that the fee for an annual subscription to the online access to BarBooks for an inactive OSB member is \$350.00. The Committee established this fee

considering that the inactive membership fee (\$110.00) and the BarBooks fee is approximately the same as the OSB active member fee.

5. Updates on Tenant and Leases at the Bar Center

Mr. Wegener updated the Committee on the information in the written agenda about the Master Lease with Opus NW and the ramifications of Opus' action.

The Committee resolved to grant authority to Committee Chair Chris Kent to negotiate a settlement with Opus NW on the Master Lease.

6. Financial Report – November 30, 2010

Mr. Wegener gave an update of changes approved by the board in 2010 by stating that BarBooks is available on line to all members and 487 books have been downloaded by members in the first week. The new Resource Directory went in the mail to the members the previous day and the related "white pages" download is being finalized.

As the fiscal year closed just a few days ago, Mr. Wegener reported there is little financial information available for 2010. He did state that the bar has billed approximately \$113,000 in advertising revenue for the 2011 resource directory. This is about the same amount for the 2010 directory and the 2011 budget, which is \$110,000.

Mr. Wegener repeated the November 30 report of the healthy net revenue of \$670,000 for bar operations, but that number will drop once the final 2010 statements are available.

7. Section Budgets for 2011

No new information to report, but Mr. Wegener reiterated that all sections have reported a net expense or a small net revenue for 2011, as reflected in the exhibit with the agenda, and as has been the history the past few years.

8. Seminars

The Committee discussed the financial issues listed in the printed agenda with no new information to report.

9. 2012 and Beyond – Filled with Unknowns

See the meeting agenda. No new information to report.

10. Unclaimed Assets

See the meeting agenda. No new information to report.

11. Next Committee meeting

The next meeting will be February 18, 2011 in Salem.

MINUTES

BOG Member Services Committee

Meeting Date: November 13, 2010
Location: Timberline Lodge
Chair: Ann Fisher
Vice-Chair: Gina Johnnie
Members Present: Barbara Dilaconi, Derek Johnson, Ethan Knight, Audrey Matsumonji
Members Absent: Ken Mitchell-Phillips
Guests: None
Staff Members: Kay Pulju

ACTION ITEMS

- | |
|---|
| 1. Topic: Approved minutes of the August 11, 2010, committee meeting. |
| 2. Topic: Approved 2011 election timelines. |
| 3. Topic: Approved recommendation that the bar support the 2011 Convocation on Equality financially and administratively as requested, with all support to be coordinated through the bar's Diversity Administrator, who should become a member of the steering committee. |

INFORMATION ITEMS

- | |
|---|
| 4. Topic: Program review in 2011. Goal will be to conduct a cost/benefit analysis of each activity/produce, review original purposes to determine whether still needed/relevant, ask whether another program or service now serves the purpose. Example for further review: ONLD – review purposes, activities and expenses to see if resources could be reallocated in a way to increase benefits; explore ways to increase out-of-valley outreach. |
| 5. Topic: Examine current practices for judicial preference polls, appellate recommendations. |

MINUTES

BOG Member Services Committee

Meeting Date: January 7, 2011
Location: OSB Center, Tigard
Chair: Gina Johnnie
Vice-Chair: Maureen O'Connor
Members Present: Gina Johnnie, Maureen O'Connor, Ethan Knight, Matt Kehoe, Audrey Matsumonji (by phone)
Members Absent: Ann Fisher, Ken Mitchell-Phillips
Guests: Tom Kranovich (BOG)
Staff Members: Danielle Edwards, Frank Garcia, Kay Pulju

ACTION ITEMS

1. **Topic:** Approved minutes of the November 13, 2010, committee meeting.

INFORMATION ITEMS

2. **Topic:** Changes to the membership directory. The new resource directories are in the mail to members, bundled with the January edition of the OSB Bulletin. Pulju provided talking points on the reasons for the change, including information on obtaining print membership directories and planned upgrades to the online membership directory.
3. **Topic:** OSB Diversity Program and update on the 2011 Diversity Convocation. Garcia gave an overview of the bar's program and summarized plans for the upcoming convocation. The purpose is to update and commemorate the first convocation, held ten years ago, and provide common goals for leaders and other stakeholders in advancing diversity. Various OSB groups and staff are involved.
4. **Topic:** OSB Program Review. Johnnie outlined the charge to the committee, which is to review bar programs and services to identify opportunities for increased efficiency and closer alignment with bar priorities. Pulju distributed set of base questions and suggested format for conducting the review, using the bar Bulletin as an example. Committee members agreed to begin by examining the ten function/program areas with the largest budgets. Members noted particular interest in the Oregon New Lawyers Division and the CLE departments.
5. **Topic:** OSB Annual Awards. The 2011 event will be a luncheon to encourage greater attendance and will take place in November rather than December.

MINUTES

BOG Policy and Governance Committee

Meeting Date: November 12, 2010
Location: Timberline Lodge, Government Camp, Oregon
Chair: Mitzi Naucner
Vice-Chair: Chris Kent
Members: Barbara Dilaconi, Michelle Garcia (absent), Michael Haglund, Ethan Knight, Maureen O'Connor

ACTION ITEMS

1. The minutes of the August 13, 2010 meeting were approved.
2. Amendment to MCLE Rule 5.2(c)(2). After consideration of the MCLE Committee's recommendation, the committee voted unanimously to recommend to the BOG that MCLE Rule 5.2(c)(2) be amended to allow credit for substantive editing of published materials.
3. New Lawyer Training Program Rules. Ms. Stevens reviewed the Mentoring Task Force's proposed Supreme Court rule establishing the program. The committee voted unanimously to recommend BOG approval of the rule and submission to the Court.
4. Member Request for "Retired" OSB Membership Status. The committee discussed a member's request for the creation of a "retired" category of membership. Several questions were raised, including what the financial impact would be of allowing "retired" lawyers to be members without paying any or minimal dues. No action was taken, as the committee concluded that additional study is required.
5. Revised Ethics School Rule. The committee reviewed the changes to proposed Bar Rule of Procedure 6.4 suggested by the Supreme Court. There being no objection to the Court's suggestions, the committee voted unanimously to recommend that the BOG approved the changes and forward the revised rule to the Court for adoption.
6. Amending OSB Bylaws re: CLE Seminars and Legal Publications. The committee voted unanimously to recommend that the BOG adopt the suggested changes to Bylaw 16 to conform it to current practice regarding the "self-supporting" aspirational goal for CLE publications, reduced and complimentary registrations and volunteer recognition.

MINUTES

BOG Policy and Governance Committee

Meeting Date: January 7, 2011
Location: OSB Center
Chair: Mitzi Naucler
Vice-Chair: Michael Haglund
Members Present: Barbara Dilaconi, Michelle Garcia, Michael Haglund, Chris Kent, Tom Kranovich, Mitzi Naucler
Members Absent: Ann Fisher
Guests: Hon. Kristena LaMar
Staff Members: Sylvia Stevens, Helen Hierschbiel.

ACTION ITEMS

- 1. Topic: Retired Member Status.** The committee discussed the pros and cons of a no- or low-fee membership status, including the financial implications. Ms. Stevens pointed out that active members 65 years and older who no longer practice law are considered "retired" and therefore exempt from MCLE. It was suggested that information on what other states do in this regard would be helpful. Mr. Haglund moved to reduce the MCLE "retired" age to 60; Mr. Kranovich seconded the motion and made a friendly amendment to send the MCLE issue and the possibility of a new membership status to the Senior Lawyers Division, assuming the BOG goes forward with it. The motion passed unanimously.
- 2. Topic: Complimentary CLE for Active Pro Bono Members.** Discussion began with an acknowledgement that only a small portion of members are in the Active Pro Bono category. Ms. Stevens pointed out that they are exempt from MCLE requirements. Ms. Naucler pointed out that there are many opportunities for low-cost and no-cost CLE through the pro bono programs and the PLF. After discussion, Mr. Haglund moved to allow Active Pro Bono Members to attend one OSB CLE seminar at no cost (limited to one full day) per year; Mr. Kent seconded and the motion passed unanimously.
- 3. Topic: Amendment of Fee Arbitration Rules.** Judge LaMar reviewed the proposed changes. The task force offered two alternatives to clarify the limits of fee arbitration jurisdiction and to resolve any concerns that the outcome of the fee arbitration proceeding should have no effect on a subsequent malpractice or other civil claim. Judge LaMar agreed to have the task force review its approach on this point. After discussion, Mr. Kent moved adoption of the proposed amendments including the 1st option for revised Rule 4.2; Mr. Kranovich seconded and the motion passed unanimously.
- 4. Topic: Creation of Urban/Rural Standing Committee.** The committee reviewed the report of the task force and decided to defer further consideration of the creation of a standing committee until Ms. Fisher can be present. Ms. Stevens will convey the committee's request for more information from Ms. Fisher.
- 5. Topic: ONLD Bylaw Changes.** Ms. Dilaconi moved to recommend all the proposed changes to the BOG in February; Ms. Garcia seconded and the motion passed unanimously.

MINUTES

BOG Public Affairs Committee

Meeting Date:	November 12, 2010
Location:	Timberline Lodge
Chair:	Steve Piucci
Vice-Chair:	Derek Johnson
Members Present:	Steve Piucci, Derek Johnson, Ann Fisher, Gina Johnnie, and Audrey Matsumonji.
Members Absent:	Steve Larson and Kenneth Mitchell-Phillips
Staff Members:	Susan Grabe

ACTION ITEMS

- **Minutes.** The minutes were approved by consensus.
- **Juvenile Dependency/Delinquency Task Force.** The committee agreed to recommend to the board that a task force be created to develop best practice standards for Juvenile Dependency and Delinquency cases. The action was moved by Ann Fisher, seconded by Audrey Matsumonji and passed unanimously.
- **Court Process Task Force.** PAC agreed to recommend to the board that a task force be created to study the HOD resolution regarding inefficiencies in court processes and when a party cited into court needs to appear. Members from the Judicial Administration and Procedure and Practice Committees, as well as the Criminal Law and Sustainability Sections will be asked to participate. The action was moved and passed by acclamation.

• INFORMATION ITEMS

- **Legislative Update.** The committee reviewed the recent election which resulted in a 30/30 split in the House and 16 (D's) to 14 in the Senate. The House will have 5 new lawyer legislators, Jason Conger, Wally Hicks, Shaun Lindsay, Mike McLane, and Matt Wand all Republican. The Senate stayed the same. A list of all lawyer legislators will be circulated to the board. The real issue for the 2011 session will be how quickly will the two parties be able to organize, and will they be able to forge a working relationship that will allow the legislature to address the serious budget issues facing the state or will it be gridlock – only time will tell.
- **Justice System Revenue Committee and Court Fees:** The committee received an update on the Joint Interim Committee on Justice System Revenues. It appears that the bills will be pre-session filed through the Judiciary Committee in December.

MINUTES

BOG Public Affairs Committee

Meeting Date: January 7, 2011
Location: Oregon State Bar
Chair: Derek Johnson
Vice-Chair: Audrey Matsumonji

Members Present: Gina Johnnie, Audrey Matsumonji, and Emerick Hunter
Members Absent: Derek Johnson, Steve Larson, Kenneth Mitchell-Phillips, and Ann Fisher.
Staff Members: Susan Grabe

ACTION ITEMS

- **Minutes.** The minutes were approved by consensus.

• INFORMATION ITEMS

- Most of the committee meeting time was spent discussing the recent attorney fee article regarding the Mickey Morie/Fred Smith case and the contingent fee system. Committee members expressed concern that the bar be prepared to explain the bar's discipline system and develop one-pagers on attorney fees and how contingent attorney fees operate.
- **Task Force Legislative Update.** The committee discussed the upcoming session and how it would operate.
- **Justice System Revenue Committee and Court Fees:** The committee received an update on the Joint Interim Committee on Justice System Revenues. The bills were pre-session filed through the Judiciary Committee in December.

PENDING CLAIM HISTORY									
CLAIM #	NAME	ATTORNEY	CLAIM	PENDING	AMOUNT PAID	DATE PAID	DATE DENIED W/DRAWN	UNPAID BALANCE	ASSIGNED TO
PENDING									
09-38	Johnson, Steven R	Dalrymple, Richard	\$852.00	\$852.00				\$852.00	Foster
10-01	Prusiewicz, Piotr	Bowman, Scott	\$1,995.00	\$1,995.00				\$1,995.00	Wright
10-07	McFeters, William and Barbara	La Follett, Thomas	\$31,371.13	\$31,371.13				\$31,371.13	Quintero
10-13	Kresting, Sara N	Pries, John P	\$2,300.00	\$2,300.00				\$2,300.00	Welch
10-15	Mastroieni, Kathleese C	Morasch, Marsha	\$4,612.00	\$4,612.00				\$4,612.00	Wright
10-16	Bazurto, Cecilia	Fields, Stanley	\$25,000.00	\$25,000.00				\$25,000.00	Gouge
10-19	Rawson, Kathryn Eilene	Dickerson, Daniel	5,000.00	5,000.00				\$5,000.00	Howard
10-20	Payne Estate (Ken Eiler Esq)	Ginsler, B. William	1,829.00	1,829.00				\$1,829.00	Wright
10-21	Sisney, Bryan	Harrison, Pamela	8,142.50	8,142.50				\$8,142.50	Gouge
10-25	Kiker, Jeffrey Allen	Ginsler, B. William	8,868.03	8,868.03				\$8,868.03	Howard
10-28	Myers, Teresa	Hayes, Keith	3,020.00	3,020.00				3,020.00	Barrack
10-29	Moeser, David Philip	La Follett, Thomas	2,212.00	2,212.00				2,212.00	Howard
10-31	Johns, Frank and Chongnak	Connall, Des	25,300.00	25,300.00				25,300.00	Wright
10-32	Ryan, Lynn	Connall, Shannon	18,500.00	18,500.00				18,500.00	Wright
10-33	Steck, Shannon	Read, Karen	500.00	500.00				500.00	Welch
10-35	Carlson, Stephanie Ann	Tiscornia, G. Victor	17,957.94	17,957.94				17,957.94	Bennett
10-36	Kitchens, Michael M	Ginsler, B. William	16,925.91	16,925.91				16,925.91	Wright
10-37	Chang, Gina and Joe & Oh, Mi Soon	Oh, John H	6,000.00	6,000.00				6,000.00	Angus
10-38	Guerrero, Daniel J	Hayes, Keith	2,000.00	2,000.00				2,000.00	Barrack
10-39	Johansen, Steve M	Oh, John H	15,000.00	15,000.00				15,000.00	Angus
10-40	Stockberger, Dale D	Dalrymple, Richard	1,945.00	1,945.00				1,945.00	Bennett
11-01	Flores-Salazar, Armando	Jordan, Keith G	10,000.00	10,000.00				10,000.00	Eggert
11-02	Risch, Stephen R	Connall, Des & Shannon	57,000.00	57,000.00				57,000.00	Wright
11-03	Memcott, Liesle	Morasch, Marsha	3,500.00	3,500.00				3,500.00	Kekel
TOTALS			\$269,830.51	\$269,830.51				\$269,830.51	
Funds available for claims and indirect costs allocation as of November 2010					Total in CSF Account			\$559,694.00	
					Fund Excess			\$289,863.49	

OREGON STATE BAR
Client Security - 113
For the Eleven Months Ending November 30, 2010

Description	November 2010	YTD 2010	Budget 2010	% of Budget	November Prior Year	YTD Prior Year	Change v Pr Yr
REVENUE							
Interest	\$108	\$2,526	\$7,300	34.6%	\$160	\$5,202	-51.4%
Judgments	360	6,752	4,000	168.8%	360	3,898	73.2%
Membership Fees	945	216,361	216,100	100.1%	50	70,376	207.4%
Miscellaneous Income						63	-100.0%
TOTAL REVENUE	1,413	225,639	227,400	99.2%	570	79,539	183.7%
EXPENSES							
SALARIES & BENEFITS							
Employee Salaries - Regular	2,745	29,686	31,300	94.8%	2,310	27,201	9.1%
Employee Taxes & Benefits - Reg	631	7,901	9,100	86.8%	564	8,099	-2.4%
TOTAL SALARIES & BENEFITS	3,376	37,587	40,400	93.0%	2,874	35,300	6.5%
DIRECT PROGRAM							
Bank Fees						39	-100.0%
Claims	19,748	177,442	150,000	118.3%	26,977	128,100	38.5%
Collection Fees	1,366	5,362	500	1072.4%			
Committees			100			92	-100.0%
Pamphlet Production			300				
Travel & Expense		2,887	1,000	288.7%		600	381.2%
TOTAL DIRECT PROGRAM EXPENSE	21,114	185,692	151,900	122.2%	26,977	128,831	44.1%
GENERAL & ADMINISTRATIVE							
Messenger & Delivery Services			50				
Office Supplies			100				
Photocopying			150			100	-100.0%
Postage	21	194	250	77.7%	23	216	-10.2%
Professional Dues			200				
Publications & Subscriptions	(40)						
Telephone	16	143	200	71.5%	18	155	-7.8%
Training & Education			450		(350)		
Staff Travel & Expense		954	580	164.6%		643	48.3%
TOTAL G & A	(3)	1,292	1,980	65.2%	(309)	1,115	15.8%
TOTAL EXPENSE	24,486	224,570	194,280	115.6%	29,541	165,246	35.9%
NET REVENUE (EXPENSE)	(23,073)	1,069	33,120		(28,971)	(85,707)	-101.2%
Indirect Cost Allocation	1,092	12,012	13,109		1,086	11,946	0.6%
NET REV (EXP) AFTER ICA	(24,165)	(10,943)	20,011		(30,057)	(97,653)	-88.8%
Fund Balance beginning of year		570,637					
Ending Fund Balance		559,694					
Staff - FTE count		.35	.35			.35	

2010 JUDGMENTS COLLECTED

Date	Attorney	Payment Received
1/5/2010	Phil Kelley	360.00
2/10/2010	Phil Kelley	360.00
3/4/2010	Phil Kelley	360.00
4/5/2010	Phil Kelley	360.00
5/3/2010	Phil Kelley	360.00
6/4/2010	Phil Kelley	360.00
7/2/2010	Phil Kelley	360.00
8/4/2010	Phil Kelley	360.00
8/25/2010	Thomas Okai	181.93
9/8/2010	Phil Kelley	360.00
9/30/2010	Phil Kelley	360.00
11/1/2010	Phil Kelley	360.00
12/7/2010	Phil Kelley	360.00

TOTAL

\$4,501.93