



## Values of the Oregon State Bar

### Integrity

Integrity is the measure of the bar's values through its actions. The bar's activities will be, in all cases, consistent with its values.

### Fairness

The bar embraces its diverse constituencies and is committed to the elimination of bias in the justice system.

### Leadership

The bar will actively pursue its vision. This requires the bar and all individual members to exert leadership to advance their goals.

### Diversity

Diversity and inclusion mean acknowledging, embracing and valuing the unique contributions our individual backgrounds make to strengthen our legal community, increase access to justice, and promote laws and creative solutions that better serve clients and communities.

### Rule of Law

The rule of law is the premise of the democratic form of government. The bar promotes the rule of law as the best means to resolve conflict and achieve equality. The rule of law underpins all of the programs and services the bar provides.

### Accountability

The bar is committed to accountability for its decisions and actions and will provide regular means of communicating its achievements to its various constituencies.

### Excellence

Excellence is a fundamental goal in the delivery of programs and services by the bar. Since excellence has no boundary, the bar strives for continuous improvement. The bar will benchmark its activities to organizations who exhibit "best practices" in order to assure high quality and high performance in its programs and services.

### Sustainability

The bar will encourage education and dialogue on how law impacts the needs and interests of future generations relative to the advancement of the science of jurisprudence and improvement of the administration of justice.

## Mission

The mission of the Oregon State Bar is to serve justice by promoting respect for the rule of law, by improving the quality of legal services, and by increasing access to justice.

# Oregon State Bar Board of Governors Agenda

August 24, 2012

**Oregon State Bar  
Meeting of the Board of Governors  
August 24, 2012  
Oregon State Bar Center  
Tigard, OR**

The Open Session Meeting of the Oregon State Bar Board of Governors will begin at 12:30 p.m. on August 24, 2012.

- 1. Call to Order/Finalization of the Agenda**
- 2. Department Presentation**
  - A. Legal Publications Department [Ms. Kruschke]
- 3. Reports**
  - A. Report of the President [Ms. Naucler] Written
  - B. Report of the President-elect [Mr. Haglund] Written Exhibit
  - C. Report of the Executive Director [Ms. Stevens] Inform Exhibit
    1. BOG Committee Structure
    2. Requiring Live Attendance for MCLE Credits
  - D. Board Members' Reports Inform
  - E. Director of Diversity & Inclusion [Ms. Hyland] Inform
  - F. MBA Liaison Report [Mr. Larson] Inform
  - G. Oregon New Lawyers Division Report [Mr. Hirshon] Inform Exhibit
- 4. Professional Liability Fund [Mr. Zarov]**
  - A. General Update Inform
  - B. Financial Information Inform Exhibit
- 5. BOG Committees, Special Committees, Task Forces and Study Groups**
  - A. New Lawyer Mentoring Program [Ms. Walsh]
    1. Review and Approve List of Potential Mentors Action Exhibit

- |           |  |        |         |
|-----------|--|--------|---------|
| <b>B.</b> | Executive Director Evaluation Committee [Ms. Garcia]                                   |        |         |
| 1.        | Review Annual Salary of Executive Director   | Action | Exhibit |
| <b>C.</b> | Budget and Finance Committee [Mr. Haglund]   |        |         |
| 1.        | July 31, 2012 Financial Report   | Inform | Exhibit |
| 2.        | Revision to OSB Investment Policy  | Action | Exhibit |
| 3.        | 2013 Executive Summary Budget Report   | Inform | Exhibit |
| <b>D.</b> | Member Services Committee [Mr. Kehoe]  |        |         |
| 1.        | Approve Awards Recommendations   | Action | Handout |
| <b>E.</b> | Policy and Governance Committee [Ms. Fisher]   |        |         |
| 1.        | Section Bylaw Changes<br>re: Meeting Flexibility, Sunsetting Procedure, Housekeeping   | Action | Exhibit |
| 2.        | HOD Structure Review   | Action | Exhibit |
| 3.        | BOG Role in Judicial Selection & Judicial Professionalism                              | Action | Exhibit |
| <b>F.</b> | Public Affairs Committee [Mr. Larson]  |        |         |
| 1.        | Legislative Update   | Inform | Exhibit |
| <b>6.</b> | <b>Other Action / Discussion Items</b>   |        |         |
| <b>A.</b> | Request to send Centralized Legal Notice System Plan to HOD                            | Action |         |
| <b>B.</b> | Client Security Fund Claims Recommended for Payment                                    | Action | Exhibit |
| <b>C.</b> | Request to Survey OSB Members<br>About Violence in the Profession                      | Action | Exhibit |
| <b>7.</b> | <b>Closed Sessions – CLOSED Agenda (<a href="#">click here</a>)</b>                    |        |         |
| <b>A.</b> | Judicial Session (pursuant to ORS 192.690(1)) – Reinstatements                         |        |         |
| <b>B.</b> | Executive Session (pursuant to ORS 192.660(1)(f) and (h)) - General Counsel/UPL Report |        |         |
| <b>8.</b> | <b>Consent Agenda</b>  |        |         |
| <b>A.</b> | Approve Minutes of Prior BOG Meetings  |        |         |
| 1.        | Regular Session – June 22 , 2012   | Action | Exhibit |
| 2.        | Special Open Session – July 27, 2012   | Action | Exhibit |

- B. Appointments Committee
  - 1. Appointments to Various Bar Committees, Boards and Councils Action Handout

**9. Default Agenda**

- A. Minutes of Interim Committee Meetings
  - 1. Access to Justice Committee
    - a. July 27, 2012 Exhibit
  - 2. Budget and Finance Committee
    - a. June 22, 2012 Exhibit
    - b. July 27, 2012 Exhibit
  - 3. Member Services Committee
    - a. June 22, 2012 Exhibit
    - b. July 27, 2012 Exhibit
  - 4. Policy and Governance Committee
    - a. July 27, 2012 Exhibit
  - 5. Public Affairs Committee
    - a. June 22, 2012 Exhibit
    - b. July 27, 2012 Exhibit
- B. CSF Financial Report Exhibit

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

- A. Correspondence
- B. Articles of Interest

## **Report of President-Elect Mike Haglund**

### **BOG-related activities, July 1-August 22, 2012**

July 18	Meeting with Chief Justice, OSB Center
July 27	BOG Committee/Special Meetings, OSB Center
August 1-4	National Conference of Bar Presidents, Chicago
August 9-10	PLF Board meeting, Ashland
August 22	OSB Legal Job Opportunities Task Force meeting, OSB Center

# OREGON STATE BAR

## Board of Governors Agenda

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**Meeting Date:** August 24, 2012  
**From:** Sylvia E. Stevens, Executive Director  
**Re:** Operations and Activities Report

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### OSB Programs and Operations

Department	Developments
<b>Accounting &amp; Finance/Facilities (Rod Wegener)</b>	<ul style="list-style-type: none"> <li>▪ There are two active lease proposals for space on the first floor – one for the larger space never occupied, and another for the former Admissions office. Both will require tenant improvements as both want to add more enclosed offices. The prospects in the smaller space also want commitments to reserve meeting rooms for about 60 events a year. Two other organizations also have come to the bar recently asking for year-long commitments for meeting rooms. Bar staff are working to see if the requests can be accommodated while still providing bar-related groups first choice for meeting rooms.</li> <li>▪ The draft of the 2012 Economic Survey is being reviewed by board members Knight, Emerick, and Wade. The overall response rate was 46.6% - disappointing compared to the response rate from past surveys.</li> <li>▪ Bar staff are working with Fastcase, the bar’s online legal research provider, to renew the agreement which expires in September. Part of the renewal will be the research library integrated with BarBooks.</li> <li>▪ Bar staff will begin working on 2013 department budgets in late August.</li> </ul>
<b>Admissions</b>	<ul style="list-style-type: none"> <li>▪ Jon Benson is no longer Executive Director of the Board of Bar Examiners. The BBX has appointed Admissions staff member Charles Schulz as interim director while the board recruits for the position.</li> <li>▪ Approximately 450 applicants sat for the bar exam on July 24-25, 2012. That is significantly less than in prior July exams when applicant numbers were closer to 550. We understand that law school applications are down nationally, as college graduates have come to realize that the existing job market may not justify the high cost of a law school education.</li> <li>▪ Bar exams will be graded by the BBX during the grading session scheduled for August 17-25, 2012. Results will be released on September 21, 2012, and the Admissions Ceremony will be held on October 4, 2012, in Salem.</li> <li>▪ The Board of Bar Examiners continues to look at the Uniform Bar Exam offered by the National Conference of Bar Examiners (NCBE). More and more states are signing on to the UBE, including Washington and Idaho. Oregon already uses the NCBE exam components that make up the Uniform Bar Exam, but the board wants to carefully weigh all pros and cons before making any recommendation to the Supreme Court.</li> </ul>

<b>Communications (Kay Pulju)</b>	<ul style="list-style-type: none"><li>▪ Our new online job board launched the first week of August, with marketing efforts to both employers and job seekers set for the fall. The new job board offers improved features for job seekers as well as options for integrating online employment ads with classified ads in the Bulletin. The board is maintained by Job Target, a company that partners with a number of other bars, including Washington.</li><li>▪ The new website design also launches in April, starting with a preview link from the member login site. The new design will simplify updating and navigation, based on years of feedback from users as well as a member focus group.</li><li>▪ The Bulletin and Bar News continue to highlight bar priorities; a recent article on the death penalty generated significant reader interest and feedback.</li></ul>
<b>CLE Seminars (Karen Lee)</b>	<ul style="list-style-type: none"><li>▪ In mid-July introduced webcast Hotspots: one hour, studio only (no live audience, just those watching on their computers), live CLE presentations in a specific practice area that are broadcast over the internet. This summer’s topic is employment law and the response has been very good – we’re averaging more than 20 viewers per webcast for three webcasts, so far. The last webcast is scheduled for Aug. 22. The Hotspots are easy to produce and require a relatively small investment of financial and staff resources in relation to the revenue return. We hope to include a series of Hotspots each quarter.</li><li>▪ On Aug. 1, we launched the new OSB CLEasy Pass (replacing the 30- year-old Season Ticket). The change was prompted by the shifting dynamics of CLE, i.e., reduced attendance at live seminars, increased use of online and on-demand CLE, member requests for more a flexible term of use for the Pass, and increased discounts for certain CLE events (Showcase Speakers and institutes). An additional benefit includes access to an electronic library of CLE course materials for seminars that are still valid for CLE credit. The initial response to the changes has been receptive and sales are gradually increasing as the expiration date of the Season Ticket approaches.</li><li>▪ Video replays will be discontinued at the end of the year due to lack of attendance. We received three member comments: two asked questions about alternatives for getting CLE credit and one was from a southern coast judge praising the bar’s use of technology to deliver CLE content. All three members indicated that they understood the reason for discontinuing their particular sites.</li></ul>

<p><b>Diversity &amp; Inclusion</b>  <b>(Mariann Hyland)</b></p>	<ul style="list-style-type: none"> <li>▪ OLIO Orientation took place at the Hood River Inn from August 9-12. There were 57 student participants – 21 from Lewis &amp; Clark, 15 from Willamette, 17 from University of Oregon, 3 Explore the Law students from PSU, and 1 OSB intern from Tigard High School / PCC Upward Bound. In addition, 16 judges and approximately 42 attorneys and other professionals participated in various parts of the weekend.</li> <li>▪ Program additions this year included a short meeting for the law school admissions staff to meet with their students at the beginning of OLIO; a couple of diversity training exercises; and formal recognition of planning committee members. Overall feedback from participants has been very positive.</li> </ul>
<p><b>General Counsel</b>  <b>(Helen Hirschbiel)</b></p>	<ul style="list-style-type: none"> <li>▪ Nearly all staff assisted with proctoring the bar exam</li> <li>▪ CAO has begun regularly accepting complaints and other correspondence by e-mail and is updating its processes accordingly.</li> <li>▪ The Fee Mediation Pilot Project is up and running.</li> <li>▪ We have revamped the OSB website pages for the UPL Committee and the Fee Arbitration/Mediation Program to make them more user friendly.</li> <li>▪ Helen presented an ethics CLE with Dee Crocker from the PLF for the OSB Real Estate and Land Use Section.</li> <li>▪ Amber presented an ethics CLE for the Clackamas County Chapter of OWLS.</li> </ul>
<p><b>Human Resources</b>  <b>(Christine Kennedy)</b></p>	<ul style="list-style-type: none"> <li>▪ Current recruiting continues to be focused on replacing the MCLE Program Assistant and Bilingual RIS Assistants. We are close to making decisions in both positions.</li> <li>▪ We are updating job descriptions for the BBX Executive Director and the IDT Support Technician.</li> <li>▪ Filled one of the vacant Bilingual RIS Assistant positions.</li> </ul>
<p><b>Information Design &amp; Technology</b>  <b>(Anna Zanolli)</b></p>	<ul style="list-style-type: none"> <li>▪ The new fiber optics connection is installed and providing a faster foundation for data interchange functions around the bar.</li> <li>▪ The CLE registration system was modified to accommodate the new CLEasy Pass.</li> <li>▪ The BBX grading interact was modified to accommodate changes in the number of essay and MPT questions.</li> <li>▪ The volunteer preference database was updated to support the 2012 member outreach effort.</li> <li>▪ A new Wordpress website was developed for the Nonprofit Organizations Law section.</li> <li>▪ In conjunction with the loss of the IDT Support Technician, department positions are being reevaluated to place an increased focus on quality assurance in all areas.</li> </ul>

<p><b>Legal Publications (Linda Kruschke)</b></p> <ul style="list-style-type: none"> <li>○</li> </ul>	<ul style="list-style-type: none"> <li>▪ The following have been posted to BarBooks™ since my last report:                     <ul style="list-style-type: none"> <li>○ The remaining 16 chapters of <i>Torts</i>, 2012 revision. PDF will be <i>posted</i> at the end of August.</li> <li>○ One more chapter of <i>Family Law</i>. There is still a lot to edit of this book, but chapters are being posted as they are finalized and approved by authors.</li> <li>○ Seven chapters of <i>Health Law in Oregon</i>. This book will be posted as chapters are completed throughout 2012, but will not be released as a print book. The outdated editions of <i>Oregon Health Law Manual</i> were removed from BarBooks at the end of June.</li> <li>○ Eight revised Products Liability <i>Uniform Civil Jury Instructions</i>.</li> <li>○ <i>2012 Oregon Legislation Highlights</i> produced by the Public Affairs Department.</li> </ul> </li> <li>▪ <i>Oregon Civil Pleading and Practice</i> sold better than expected in our pre-order campaign and actual revenue has significantly exceeded budget:                     <ul style="list-style-type: none"> <li>○ 2012 Budget = \$13,500; Actual to date = \$45,669</li> <li>○ Based on number of copies sold, sales of the 2012 edition of this book are 25% of the sales of the last edition released in 2006 (before BarBooks was launched)</li> </ul> </li> <li>▪ <i>Torts</i> is scheduled to go to the printer on August 30. Our pre-order marketing campaign began on July 9 and pre-order sales have already exceeded budget with another email promotion to be sent next week:                     <ul style="list-style-type: none"> <li>○ 2012 Budget - \$14,400; Actual to date = \$16,712</li> <li>○ Based on number of copies sold, current sales of the 2012 edition of this book are 11% of the sales of the last edition released in 2006 (before BarBooks was launched).</li> </ul> </li> </ul>
<p><b>Legal Services/OLF (Judith Baker)</b></p>	<p>Legal Services Program:</p> <ul style="list-style-type: none"> <li>▪ Legal Aid completed its strategic planning for how to provide legal services to low-income Oregonians given the ongoing funding crisis. The planning committee’s recommendations will be forwarded to the legal aid boards in September.</li> <li>▪ Building on last year’s successful Pro Bono Celebration, this year there will be a second reception/fair/CLE in Eugene. Three CLEs are planned for the Portland event: 1.) Restraining Orders—put on by LASO; 2.) I have a pro bono client; now what?—put on by the ONLD; and 3.) Assisting crime victims—put on by the Oregon Crime Victims’ Law Center. One other CLE may be held earlier in the day or week. Chief Justice Balmer, Justice Walters and OSB President Naucner are all confirmed to attend.</li> <li>▪ LRAP staff is currently investigating the expansion of the program to include individual public defenders who are not employed by firms that contract with the state.</li> </ul> <p>Oregon Law Foundation</p> <ul style="list-style-type: none"> <li>▪ The OLF continues to work with banks to maintain the highest possible interest rates on IOLTA accounts and educate lawyers to understand the importance of keeping IOLTA accounts at Leadership Banks.</li> <li>▪ The OLF continues to explore sources of revenue in addition to IOLTA funds.</li> </ul>

<b>Member Services (Dani Edwards)</b>	<ul style="list-style-type: none"><li>▪ The ONLD’s Law College Program won the ABA Young Lawyers Division Service to the Bar Award for both its size category and for all size categories. This is the second year the ONLD was honored a national award. In 2011 it received these same awards for the Practical Skills through Public Service Project.</li><li>▪ As anticipated, the bar received notice from Bank of America terminating our affinity partnership when our contract expires on November 30, 2012. Royalties from this partnership were just over \$13,000 in 2011.</li><li>▪ Recruitment continues for lawyer and public member volunteers to serve on various bar committees, councils, and boards. The number of public member volunteers has decreased (down 20%) while the number of lawyer volunteers continues to increase (up 24%).</li></ul>
<b>Minimum Continuing Legal Education (Denise Cline)</b>	<ul style="list-style-type: none"><li>▪ The MCLE Committee will meet on Friday, September 14.</li><li>▪ Staff processed 4,458 program accreditation applications and 807 applications for other types of CLE credit (teaching, legal research, etc.) since the first of the year.</li><li>▪ We are conducting 2<sup>nd</sup> interviews for the MCLE Program Assistant (.75 FTE) position and expect to have that position filled soon.</li><li>▪ Active members whose MCLE reporting period ends 12/31/2012 were sent courtesy reminders on July 9. Forty-six members have already filed their 2012 compliance reports.</li></ul>

<p><b>New Lawyer Mentoring/Media Relations (Kateri Walsh)</b></p>	<p>Mentoring:</p> <ul style="list-style-type: none"><li>▪ We now have about 350 matched pairs going through the program. The first Certificates of Completion from 2011 are just beginning to trickle in. This will give us an opportunity to survey and begin to collect some usable feedback for evaluating.</li><li>▪ We are approaching the fall swearing-in. Our numbers are not where they should be so recruitment remains a top priority.</li><li>▪ We have had some feedback from mentors and new lawyers that the program is overly burdensome. There is also some evidence that this has been a barrier to signing some volunteers. Throughout August and September the committee will conduct a very thorough review of the required (vs. suggested) elements and may move towards reversing some of those recommendations.</li></ul> <p>Media:</p> <ul style="list-style-type: none"><li>▪ We recently assisted the Oregonian in a lengthy piece about law school debt, which ran in early August.</li><li>▪ We have a number of discipline cases garnering attention around the state.</li><li>▪ We continue to work with OSB, OLF and media contacts on the issue of the OLF Central Legal Notices system.</li><li>▪ We are gearing up for the fall Judicial Voters Guide, for which we will partner with media to get the info out to the voters.</li><li>▪ The Bar Press Broadcasters Council is advancing some recommended changes to UTCR 3.180 on Cameras in the Court. Some are technical (benign) language changes. One substantive change would be to limit the availability of victims of sexual crimes to exclude the public (i.e. media) only from the coverage of the victim’s testimony or likeness. (Currently, the public can be excluded from the entire proceeding.) The Council, which is independent of the bar, has voted on the changes, but it remains to be seen whether the UTCR committee will advance the recommendations. Doug Bray is involved in the discussions. Please let Kateri know if you want some detail on this one.</li></ul>
<p><b>Public Affairs (Susan Grabe)</b></p>	<ul style="list-style-type: none"><li>▪ The BOG’s package of 19 Law Improvement proposals was submitted to Legislative Counsel’s Office for pre-session filing and drafting for the 2013 Legislative Session. Thus far, we have received 6 drafts back, 5 of which have been finalized. Public Affairs staff continues to reach out to bar groups and stakeholders to address concerns regarding law improvement legislation.</li><li>▪ The Public Affairs staff has finished the 2012 Session edition of the Legislation Highlights Notebook which is now available on Bar Books.</li><li>▪ The Public Affairs Department has begun preparation for the 2013 legislative cycle and budget. The move to Annual Sessions has changed timeframes, workflow and speed of response time. This has, in turn, required a shift in bar operations to ensure effective participation in the process. The department will have a staff retreat in late September to discuss increased/better use of technology, work flow and ways to streamline our operations.</li></ul>

<b>Referral &amp; Information Services (George Wolff)</b>	<ul style="list-style-type: none"><li>▪ RIS continues to implement the new LRS database which, when fully implemented, will minimize the administrative impact of the percentage fee model on participating attorneys. There have been a few more challenges to the implementation that we would have liked, but staff is able to make referrals for all programs and is increasingly more comfortable with the new interface. Additional usability enhancements are in the development pipeline which will help lower call-handling times, lessen the amount of abandoned calls, and potentially increase the number of referrals.</li><li>▪ In recognition of and in response to the implementation problems, the software provider has agreed that until it meets all database program requirements RIS will not pay any monthly service fee. The lead engineer and project manager are expected to visit the OSB in September to map out additional enhancements and timelines for delivery.</li><li>▪ Using the new system, participating attorneys are able to do all of the following online – none of which was previously possible: Review all panels, subpanels, and territories for which the attorney is registered; submit changes to panels/subpanels; opt-out of territories specific to each panel; and review the attorney’s referral history.</li><li>▪ To date, LRS has 520 participating attorneys, compared to approximately 800 a year ago (35% attrition). LRS traditionally starts its program year with its lowest number of attorneys and ends with its highest number at the conclusion of the program year (1100 in June 2012). Call volume and referrals remain unaffected by the transition to a percentage fees revenue model.</li></ul>
<b>Regulatory Services (Jeff Sapiro)</b>	<ul style="list-style-type: none"><li>▪ The SPRB continues to meet monthly to review the results of disciplinary investigations and make probable cause decisions in those matters. The board met in Bend on July 21, 2012, and took action on approximately 45 separate matters. The board met again on August 16, 2012, and considered roughly 20 additional matters.</li><li>▪ Over 40 formal disciplinary proceedings have concluded thus far in 2012, either by contested case decision, stipulation or diversion. Another 8-10 are likely to be concluded by the end of August.</li><li>▪ Regulatory Services staff will assist in a de-briefing of the IOLTA suspension process used for the first time in 2012, in which failure to file the annual IOTLA certificate resulted in an administrative, rather than disciplinary, suspension. The goal is to fine-tune the process and include more notices so that fewer lawyers are suspended in 2013.</li><li>▪ Regulatory Services staff also continue to process the usual number of membership status transfers, reinstatements, <i>pro hac vice</i> applications and public records requests.</li></ul>

**Executive Director’s Activities June 23 to August 23, 2012**

<b>Date</b>	<b>Event</b>
6/25	WSBA Online Conversation re: Implementing Fee Resolution Change
6/27	Lunch@ Miller Nash
6/29	Ellen Rosenblum Investiture
7/10	HOD Region 4 Meeting
7/11	HOD Region 3 and Region 5 Meetings
7/11	CEJ Board Meeting
7/12	HOD Region 2 Meeting
7/13	“Honoring Families Initiative” Advisory Committee Meeting
7/14	Client Security Fund Meeting
7/16	Oregon ABA Delegation Meeting
7/17	Lunch @ K&L Gates
7/18	EDs Breakfast Group
7/18	Meeting with Chief Justice
7/27	BOG Committees and Special BOG Meeting
7/31-8/4	NABE/NCBP Meetings – Chicago
8/7	Lunch @ Chernoff Vilhauer
8/7	CLP/NEH Civility Project Meeting
8/9-8/11	OLIO – Hood River
8/15	EDs Breakfast Group
8/15	Willamette Law School Orientation
8/21	Lunch @ Black Helderline
8/22	Legal Opportunities Work Group Meeting

# OREGON STATE BAR

## Board of Governors Agenda

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**Meeting Date:** August 24, 2012  
**Memo Date:** August 6, 2012  
**From:** Jason Hirshon, Oregon New Lawyers Division Chair  
**Re:** ONLD Report

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Since the BOG's last meeting the ONLD Executive Committee met once to conduct business. In June the board approved the appointment of new region 7 representative, Krista Evans, and discussed upcoming events. The ONLD held socials in Portland and Salem in June, a brown bag lunch CLE program in Portland, and revived the Deschutes River rafting trip held in July.

The ONLD provided applicants with Bar Exam Survival Kits during the bar exam this July. The kit included a water bottle stuffed with ear plugs, antacid tablets, granola bar, and information about getting involved with the ONLD.

In conjunction with the August meeting this weekend the ONLD will host a casino night with the OLIO participants. The ONLD has sponsored this event the last three years which has fostered a great relationship between the ONLD and the Diversity and Inclusion Program. In fact, the ONLD just announced a new CLE series dedicated to diversity in the legal profession. The new four-month series will begin in September.

Again this year the ONLD is sponsoring an information booth at the Lane County Fair. Utilizing more than 30 volunteers, the ONLD will distribute Legal Links brochures, Lawyer Referral Business Cards, Bill of Rights posters, U.S. Constitution books, and several other law-related give-away items during the five day event.

Last weekend three ONLD Executive Committee members traveled to Chicago for the ABA Young Lawyers Division annual meeting. For the second year in a row, the ONLD received the ABA YLD's Most Outstanding Project of The Year Award for Service to The Bar. This award recognized the value our SSA & Foreclosure Project programming provided Oregon young lawyers.

**Oregon State Bar  
Professional Liability Fund  
Financial Statements  
5/31/2012**

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7	Combined Investment Schedule

**Oregon State Bar  
Professional Liability Fund  
Combined Primary and Excess Programs  
Balance Sheet  
5/31/2012**

**ASSETS**

	<b><u>THIS YEAR</u></b>	<b><u>LAST YEAR</u></b>
Cash	\$2,127,031.21	\$996,233.37
Investments at Fair Value	41,292,251.54	43,999,095.13
Assessment Installment Receivable	6,011,191.62	5,887,685.91
Due from Reinsurers	370,450.99	135,904.64
Other Current Assets	87,115.50	83,194.66
Net Fixed Assets	971,331.70	1,062,504.75
Claim Receivables	109,949.99	79,307.88
Other Long Term Assets	<u>9,825.00</u>	<u>10,000.00</u>
<b>TOTAL ASSETS</b>	<b><u>\$50,979,147.55</u></b>	<b><u>\$52,253,926.34</u></b>

**LIABILITIES AND FUND EQUITY**

	<b><u>THIS YEAR</u></b>	<b><u>LAST YEAR</u></b>
<b>Liabilities:</b>		
Accounts Payable and Other Current Liabilities	\$145,417.85	\$80,541.17
Due to Reinsurers	\$847,884.66	\$810,598.17
Liability for Compensated Absences	430,305.28	368,657.76
Liability for Indemnity	15,505,196.06	14,090,475.84
Liability for Claim Expense	12,520,765.11	12,079,973.35
Liability for Future ERC Claims	2,700,000.00	2,400,000.00
Liability for Suspense Files	1,400,000.00	1,400,000.00
Liability for Future Claims Administration (AOE)	2,300,000.00	2,300,000.00
Excess Ceding Commission Allocated for Rest of Year	423,233.98	418,150.73
Assessment and Installment Service Charge Allocated for Rest of Year	<u>14,627,357.31</u>	<u>14,438,878.42</u>
<b>Total Liabilities</b>	<b><u>\$50,900,160.25</u></b>	<b><u>\$48,387,275.44</u></b>
<b>Fund Equity:</b>		
Retained Earnings (Deficit) Beginning of the Year	(\$781,169.42)	\$2,349,430.48
Year to Date Net Income (Loss)	<u>860,156.72</u>	<u>1,517,220.42</u>
<b>Total Fund Equity</b>	<b><u>\$78,987.30</u></b>	<b><u>\$3,866,650.90</u></b>
<b>TOTAL LIABILITIES AND FUND EQUITY</b>	<b><u>\$50,979,147.55</u></b>	<b><u>\$52,253,926.34</u></b>

**Oregon State Bar  
Professional Liability Fund  
Primary Program  
Income Statement  
5 Months Ended 5/31/2012**

	YEAR TO DATE <u>ACTUAL</u>	YEAR TO DATE <u>BUDGET</u>	<u>VARIANCE</u>	YEAR TO DATE <u>LAST YEAR</u>	<u>ANNUAL BUDGET</u>
<b><u>REVENUE</u></b>					
Assessments	\$10,284,073.61	\$10,378,125.00	\$94,051.39	\$10,153,157.08	\$24,907,500.00
Installment Service Charge	164,038.75	167,083.35	3,044.60	160,327.50	401,000.00
Other Income	37,406.57	0.00	(37,406.57)	24,998.00	0.00
Investment Return	<u>1,066,090.12</u>	<u>1,095,137.90</u>	<u>29,047.78</u>	<u>1,536,797.19</u>	<u>2,628,331.00</u>
<b>TOTAL REVENUE</b>	<b><u>\$11,551,609.05</u></b>	<b><u>\$11,640,346.25</u></b>	<b><u>\$88,737.20</u></b>	<b><u>\$11,875,279.77</u></b>	<b><u>\$27,936,831.00</u></b>
<b><u>EXPENSE</u></b>					
<b>Provision For Claims:</b>					
New Claims at Average Cost	\$8,280,000.00			\$7,995,000.00	
Coverage Opinions	74,641.68			47,620.29	
General Expense	33,663.83			4,531.22	
Less Recoveries & Contributions	(191,983.19)			(30,077.45)	
Budget for Claims Expense		<u>\$8,828,750.00</u>			<u>\$21,189,000.00</u>
<b>Total Provision For Claims</b>	<b><u>\$8,196,322.32</u></b>	<b><u>\$8,828,750.00</u></b>	<b><u>\$632,427.68</u></b>	<b><u>\$8,017,074.06</u></b>	<b><u>\$21,189,000.00</u></b>
<b>Expense from Operations:</b>					
Administrative Department	\$849,289.33	\$917,406.05	\$68,116.72	\$913,128.32	\$2,201,774.00
Accounting Department	312,288.39	329,149.95	16,861.56	258,432.37	789,960.00
Loss Prevention Department	725,204.85	757,679.45	32,474.60	684,325.66	1,818,430.00
Claims Department	997,956.91	1,027,863.70	29,906.79	914,902.39	2,466,873.00
Allocated to Excess Program	(458,260.80)	(458,260.80)	0.00	(562,543.25)	(1,099,826.00)
<b>Total Expense from Operations</b>	<b><u>\$2,426,478.68</u></b>	<b><u>\$2,573,838.35</u></b>	<b><u>\$147,359.67</u></b>	<b><u>\$2,208,245.49</u></b>	<b><u>\$6,177,211.00</u></b>
Contingency (2% of Operating Exp)	\$40,335.55	\$60,642.10	\$20,306.55	\$0.00	\$145,541.00
Depreciation and Amortization	\$73,584.95	\$99,000.00	\$25,415.05	\$90,694.97	\$237,600.00
Allocated Depreciation	(14,998.35)	(14,998.35)	0.00	(18,181.65)	(35,996.00)
<b>TOTAL EXPENSE</b>	<b><u>\$10,721,723.15</u></b>	<b><u>\$11,547,232.10</u></b>	<b><u>\$825,508.95</u></b>	<b><u>\$10,297,832.87</u></b>	<b><u>\$27,713,356.00</u></b>
<b>NET INCOME (LOSS)</b>	<b><u>\$829,885.90</u></b>	<b><u>\$93,114.15</u></b>	<b><u>(\$736,771.75)</u></b>	<b><u>\$1,577,446.90</u></b>	<b><u>\$223,475.00</u></b>

**Oregon State Bar  
Professional Liability Fund  
Primary Program  
Statement of Operating Expense  
5 Months Ended 5/31/2012**

<u>EXPENSE:</u>	<u>CURRENT MONTH</u>	<u>YEAR TO DATE ACTUAL</u>	<u>YEAR TO DATE BUDGET</u>	<u>VARIANCE</u>	<u>YEAR TO DATE LAST YEAR</u>	<u>ANNUAL BUDGET</u>
Salaries	\$327,307.42	\$1,647,036.86	\$1,673,510.80	\$26,473.94	\$1,593,069.48	\$4,016,426.00
Benefits and Payroll Taxes	118,429.79	587,849.70	600,518.10	12,668.40	446,404.48	1,441,243.00
Investment Services	0.00	6,686.25	11,250.00	4,563.75	6,513.75	27,000.00
Legal Services	1,360.00	6,043.50	6,250.00	206.50	24,223.39	15,000.00
Financial Audit Services	0.00	14,000.00	10,416.65	(3,583.35)	20,200.00	25,000.00
Actuarial Services	0.00	6,337.50	7,916.65	1,579.15	6,457.50	19,000.00
Claims MMSEA Services	450.00	3,850.00	5,000.00	1,150.00	4,900.00	12,000.00
Information Services	4,320.57	40,050.19	30,833.30	(9,216.89)	41,782.48	74,000.00
Document Scanning Services	0.00	5,717.66	31,250.00	25,532.34	7,504.47	75,000.00
Other Professional Services	2,908.44	17,592.94	25,833.40	8,240.46	31,935.31	62,000.00
Staff Travel	(286.85)	1,592.73	5,395.85	3,803.12	1,578.64	12,950.00
Board Travel	409.36	3,882.43	17,208.35	13,325.92	5,867.01	41,300.00
NABRICO	0.00	0.00	4,375.00	4,375.00	0.00	10,500.00
Training	3,475.92	7,582.22	4,999.95	(2,582.27)	1,729.52	12,000.00
Rent	41,522.25	206,690.75	207,611.25	920.50	203,636.03	498,267.00
Printing and Supplies	10,079.25	28,104.41	35,416.65	7,312.24	31,250.46	85,000.00
Postage and Delivery	1,157.89	15,053.60	15,729.20	675.60	13,300.64	37,750.00
Equipment Rent & Maintenance	8,110.62	13,732.27	22,916.65	9,184.38	11,796.38	55,000.00
Telephone	3,040.95	13,808.08	14,583.35	775.27	14,468.29	35,000.00
L P Programs (less Salary & Benefits)	27,050.57	133,230.93	165,681.90	32,450.97	141,556.13	397,636.00
Defense Panel Training	0.00	0.00	83.30	83.30	56.70	200.00
Bar Books Grant	16,666.67	83,333.35	83,333.35	0.00	125,000.00	200,000.00
Insurance	0.00	8,401.00	25,527.10	17,126.10	9,049.00	61,265.00
Library	3,925.94	11,201.34	12,916.65	1,715.31	9,036.97	31,000.00
Subscriptions, Memberships & Other	1,967.88	22,961.77	13,541.70	(9,420.07)	19,472.11	32,500.00
Allocated to Excess Program	(91,652.16)	(458,260.80)	(458,260.80)	0.00	(562,543.25)	(1,099,826.00)
<b>TOTAL EXPENSE</b>	<b><u>\$480,244.51</u></b>	<b><u>\$2,426,478.68</u></b>	<b><u>\$2,573,838.35</u></b>	<b><u>\$147,359.67</u></b>	<b><u>\$2,208,245.49</u></b>	<b><u>\$6,177,211.00</u></b>

**Oregon State Bar  
Professional Liability Fund  
Excess Program  
Income Statement  
5 Months Ended 5/31/2012**

	YEAR TO DATE <u>ACTUAL</u>	YEAR TO DATE <u>BUDGET</u>	<u>VARIANCE</u>	YEAR TO DATE <u>LAST YEAR</u>	<u>ANNUAL BUDGET</u>
<b><u>REVENUE</u></b>					
Ceding Commission	\$302,309.98	\$294,000.00	(\$8,309.98)	\$298,679.10	\$705,600.00
Prior Year Adj. (Net of Reins.)	1,369.88	625.00	(744.88)	1,041.01	1,500.00
Installment Service Charge	37,180.00	15,833.35	(21,346.65)	37,242.00	38,000.00
Investment Return	<u>204,447.02</u>	<u>95,229.60</u>	<u>(109,217.42)</u>	<u>222,663.25</u>	<u>228,551.00</u>
<b>TOTAL REVENUE</b>	<b><u>\$545,306.88</u></b>	<b><u>\$405,687.95</u></b>	<b><u>(\$139,618.93)</u></b>	<b><u>\$559,625.36</u></b>	<b><u>\$973,651.00</u></b>
<b><u>EXPENSE</u></b>					
Operating Expenses (See Page 6)	\$500,037.71	\$506,100.75	\$6,063.04	\$601,670.19	\$1,214,642.00
Allocated Depreciation	<u>\$14,998.35</u>	<u>\$14,998.35</u>	<u>\$0.00</u>	<u>\$18,181.65</u>	<u>\$35,996.00</u>
<b>NET INCOME (LOSS)</b>	<b><u>\$30,270.82</u></b>	<b><u>(\$115,411.15)</u></b>	<b><u>(\$145,681.97)</u></b>	<b><u>(\$60,226.48)</u></b>	<b><u>(\$276,987.00)</u></b>

**Oregon State Bar  
Professional Liability Fund  
Excess Program  
Statement of Operating Expense  
5 Months Ended 5/31/2012**

	<u>CURRENT</u> <u>MONTH</u>	YEAR <u>TO DATE</u> <u>ACTUAL</u>	YEAR <u>TO DATE</u> <u>BUDGET</u>	<u>VARIANCE</u>	YEAR <u>TO DATE</u> <u>LAST YEAR</u>	<u>ANNUAL</u> <u>BUDGET</u>
<b><u>EXPENSE:</u></b>						
Salaries	\$56,281.76	\$281,408.80	\$281,139.55	(\$269.25)	\$333,029.35	\$674,735.00
Benefits and Payroll Taxes	19,900.26	99,505.86	99,821.65	315.79	100,432.07	239,572.00
Investment Services	0.00	813.75	1,333.35	519.60	986.25	3,200.00
Office Expense	0.00	0.00	0.00	0.00	0.00	0.00
Allocation of Primary Overhead	22,969.58	114,847.90	114,847.90	0.00	162,057.45	275,635.00
Reinsurance Placement & Travel	0.00	2,316.10	5,000.00	2,683.90	3,764.41	12,000.00
Training	0.00	0.00	416.65	416.65	0.00	1,000.00
Printing and Mailing	0.00	0.00	2,083.35	2,083.35	1,145.66	5,000.00
Program Promotion	0.00	1,000.00	416.65	(583.35)	0.00	1,000.00
Other Professional Services	0.00	145.30	1,041.65	896.35	255.00	2,500.00
Software Development	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
<b>TOTAL EXPENSE</b>	<b><u>\$99,151.60</u></b>	<b><u>\$500,037.71</u></b>	<b><u>\$506,100.75</u></b>	<b><u>\$6,063.04</u></b>	<b><u>\$601,670.19</u></b>	<b><u>\$1,214,642.00</u></b>

**Oregon State Bar  
Professional Liability Fund  
Combined Investment Schedule  
5 Months Ended 5/31/2012**

	CURRENT MONTH <u>THIS YEAR</u>	YEAR TO DATE <u>THIS YEAR</u>	CURRENT MONTH <u>LAST YEAR</u>	YEAR TO DATE <u>LAST YEAR</u>
<b>Dividends and Interest:</b>				
Short Term Bond Fund	\$19,297.95	\$136,640.44	\$13,344.19	\$120,963.04
Intermediate Term Bond Funds	24,711.31	110,855.75	22,519.06	108,522.11
Domestic Common Stock Funds	0.00	7,610.20	0.00	8,333.95
International Equity Fund	0.00	0.00	0.00	0.00
Real Estate	0.00	48,640.69	0.00	53,891.91
Hedge Fund of Funds	0.00	0.00	0.00	0.00
Real Return Strategy	<u>0.00</u>	<u>39,703.93</u>	<u>0.00</u>	<u>45,257.35</u>
<b>Total Dividends and Interest</b>	<b><u>\$44,009.26</u></b>	<b><u>\$343,451.01</u></b>	<b><u>\$35,863.25</u></b>	<b><u>\$336,968.36</u></b>
<b>Gain (Loss) in Fair Value:</b>				
Short Term Bond Fund	\$2,337.79	\$220,302.66	\$5,542.88	\$161,841.87
Intermediate Term Bond Funds	41,761.64	283,304.27	21,506.17	150,059.64
Domestic Common Stock Funds	(625,172.35)	260,418.92	(143,423.87)	420,191.69
International Equity Fund	(718,844.31)	(66,340.65)	(224,457.26)	314,997.19
Real Estate	6.15	42,197.26	0.00	47,236.06
Hedge Fund of Funds	(82,593.61)	112,214.06	(33,695.24)	61,321.19
Real Return Strategy	<u>(159,323.04)</u>	<u>74,989.61</u>	<u>(45,218.78)</u>	<u>266,844.44</u>
<b>Total Gain (Loss) in Fair Value</b>	<b><u>(\$1,541,827.73)</u></b>	<b><u>\$927,086.13</u></b>	<b><u>(\$419,746.10)</u></b>	<b><u>\$1,422,492.08</u></b>
<b>TOTAL RETURN</b>	<b><u>(\$1,497,818.47)</u></b>	<b><u>\$1,270,537.14</u></b>	<b><u>(\$383,882.85)</u></b>	<b><u>\$1,759,460.44</u></b>
<b>Portions Allocated to Excess Program:</b>				
Dividends and Interest	\$3,019.04	\$37,949.01	\$2,872.65	\$41,085.24
Gain (Loss) in Fair Value	<u>(105,769.38)</u>	<u>166,498.01</u>	<u>(33,621.66)</u>	<u>181,578.01</u>
<b>TOTAL ALLOCATED TO EXCESS PROGRAM</b>	<b><u>(\$102,750.34)</u></b>	<b><u>\$204,447.02</u></b>	<b><u>(\$30,749.01)</u></b>	<b><u>\$222,663.25</u></b>

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# OREGON STATE BAR

## Board of Governors Agenda

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**Meeting Date:** August 24, 2012  
**Memo Date:** August 10, 2012  
**From:** Kateri Walsh  
**Re:** New Lawyer Mentor Program: Mentor Nominees

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### **Action Recommended**

Review the attached list of volunteer mentors for the New Lawyer Mentoring Program, and approve appointment recommendations for submission to the Oregon Supreme Court.

### **Background**

All mentors participating in the New Lawyer Mentoring Program require recommendation by the Board of Governors and appointment by the Oregon Supreme Court. The criteria include:

- Seven years of experience as a practicing attorney.
- No pending disciplinary prosecutions.
- A reputation for competence, ethics and professionalism.

Please review and approve all appropriate volunteers. Contact Kateri Walsh directly with any questions or concerns about the process, or about any volunteer mentors.

**MENTORS FOR BOG APPROVAL, August 2012 --- New Lawyer Mentoring Program**

<b>Bar#</b>	<b>Sal.</b>	<b>F.Name</b>	<b>M.Name</b>	<b>L.Name</b>	<b>City.State.Zip</b>
981738	Ms.	Carolyn		Alexander	Salem, OR 97301
041409	Ms.	Amy		Angel	Portland, OR 97204
710101	Mr.	Dennis		Ashenfelter	Albany, OR 97321
861494	Mr.	Lawrence		Beck	Portland, OR 97205
841132	Mr.	Mark		Becker	Hillsboro, OR 97124
791575	Mr.	Charles	D.	Beshears III	Portland, OR 97201
851571	Mr.	Whitney		Boise	Portland, OR 97205
760679	Mr.	Douglas		Bomarito	Tigard, OR 97223
861606	Ms.	Michelle		Burrows	Portland, OR 97209
851745	Mr.	Timothy		Colahan	Burns, OR 97720
042669	Ms.	Renee		Cummings	Portland, OR 97212
952428	Ms.	Alice		Cuprill-Comas	Portland, OR 97209
922560	Mr.	Michael		Czaiko	Oregon City, OR 97045
812037	Mr.	C.	Thomas	Davis	Beaverton, OR 97005
891621	Mr.	Robert		Demary	Portland, OR 97204
972496	Mr.	Robert	A.	Diehl	Wilsonville, OR 97070
872132	Mr.	Jeffrey		Eberhard	Portland, OR 97204
820476	Mr.	Paul		Elsner	Portland, OR 97201
841361	Mr.	Hunter		Emerick	Salem, OR 97308
840473	Mr.	Mark		Geiger	Salem, OR 97301
035386	Ms.	Katrina		Glogowski	Seattle, WA 98121
983893	Ms.	Stephanie		Hortsch	Salem, OR 97301
861717	Ms.	Eva		Kripalani	Portland, OR 97212
993098	Mr.	Lance		Lefever	Springfield, OR 97477
842733	Mr.	Roger		Lenneberg	Clackamas, OR 97015
872860	Mr.	Michael	C.	Lewton	Portland, OR 97204
060270	Ms.	Christine	N.	Moore	Portland, OR 97204
681121	Mr.	Roger		Mundurff	Milwaukie, OR 97222
732218	Mr.	Roscoe	C.	Nelson	Portland, OR 97258
021268	Mr.	James		Oberholtzer	Portland, OR 97204
770604	Mr.	Gene		Platt	Newberg, OR 97132
661038	Mr.	Robert	C.	Robertson	Medford, OR 97501
080325	Mr.	Joseph	Justin	Rollin	Portland, OR 97205
753221	Mr.	Michael	E.	Rose	Portland, OR 97204
973875	Mr.	Craig		Russillo	Portland, OR 97204
661091	Mr.	Norman		Sepenuk	Portland, OR 97204
891187	Mr.	John		Shadden	Hillsboro, OR 97123
045530	Ms.	Michelle	Barton	Smigel	Portland, OR 97204
993833	Ms.	Cathern		Tufts	Siletz, OR 97380
860993	Mr.	Douglas	V.	Van Dyk	Oregon City, OR 97045
944898	Hon.	Debra	Kay Zuhlke	Vogt	Eugene, OR 97401
801350	Mr.	Robert	C.	Weaver	Portland, OR 97204
944605	Judge	Katherine		Weber	Oregon City, OR 97045
901359	Mr.	David		Wiles	Portland, OR 97204

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# OREGON STATE BAR

## Board of Governors Agenda

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**Meeting Date:** August 24, 2012  
**From:** Michelle Garcia, Chair, ED Evaluation Committee  
**Re:** Executive Director Compensation

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### **Action Recommended**

Approve the recommendation of the Executive Director Evaluation Committee to increase the annual salary of the Executive Director by 2%.

### **Background**

Sylvia began her tenure as ED in August 2010. Her contract (which expires December 31, 2013) calls for annual salary increases “in an amount determined between the Executive Director and the Board, but by not less than the percentage increase granted to other OSB staff.”

Sylvia’s first annual performance review as ED took place in November 2011 and was very favorable. No adjustment in salary was addressed at that time. In January 2012, Sylvia’s annual salary was increased by 2%, the same amount that all OSB staff salaries were increased.

In April, the ED Evaluation Committee met and voted to recommend an increase in Sylvia’s salary in recognition of her excellent performance. After consultation with Mitzi Naucler, Sylvia suggested an additional 2% for the remainder of 2012. Her 2013 salary can be addressed after the BOG establishes the budget for 2013.

### Narrative Summary

Typically during the summer months the bar's operates a net expense as revenue is lower than other months. That certainly was the case this July as *Program Fee* revenue of \$105,987 was the lowest by far in any month this year. The net expense for the month was \$60,134, but after seven months net revenue is \$512,034. This still should leave the bar on target for a breakeven to small deficit by year end.

### Executive Summary

	Actual 7/31/2012	Seasonal Budget 7/31/2012	Budget Variance	% of Budget	Actual 7/31/2011
<b>Revenue</b>					
Member Fees	\$ 4,102,535	\$4,053,860	\$48,675	1.2%	\$ 4,008,783
Program Fees	2,083,150	2,173,109	(89,959)	-4.1%	2,199,143
Other Income	293,617	258,683	34,934	13.5%	467,514
Total Revenue	6,479,302	6,485,652	(6,350)	-0.1%	6,675,440
<b>Expenses</b>					
Salaries & Benefits	4,317,036	4,357,596	(40,560)	-0.9%	4,067,895
Direct Program, G & A	1,648,460	1,748,205	(99,745)	-5.7%	1,559,969
Contingency	1,771	14,583	(12,812)	-87.9%	0
Total Expense	5,967,267	6,120,385	(153,118)	-2.5%	5,627,864
<b>Net Operating Rev (Exp)</b>	<b>512,034</b>	<b>\$ 365,267</b>	<b>146,767</b>		<b>1,047,576</b>
Fanno Creek Place	(416,797)	(417,062)			(236,442)
Net Rev Bef Mkt Adj	95,237	(51,795)			811,134
Unrealized Investment Gains /(Losses)	144,498				5,511
Realized Investment Gains/(Losses)	28,360				81,022
Publ Inventory Increase/Decrease (COGS)	(33,371)				(137,272)
Reserve Reallocation	(116,669)	(100,000)			(233,331)
Net Revenue	\$ 118,054	\$ (151,795)			\$ 527,064

↑  
Positive Budget  
Variance

## Notes on Selected Programs or Accounts

- ... There are only two activities – the **Bulletin** and **Legal Publications** - with revenue exceeding seven months a year ago. Bulletin advertising revenue is up \$35,900, or 16%, more than a year ago.
- ... Notable differences in revenue from the report a year show that **Admissions** and **MCLE** – activities which typically have grown in revenue year over year – are lower than a year ago, albeit MCLE revenue is only \$1,200 lower.
- ... The bar paid \$98,316 in **Client Security Fund claims** during July. However, there still are many more claims pending.
- ... **Postage** costs continue to decline. Seven months is 58.3% of the year and only 46.8% of the budget is expended. Postage costs are \$9,100 less than a year ago.
- ... The **investment portfolio** grew .83% during July. That's a \$34,458 gain.

## Notes about Contingencies

- ◆ Paid from the **Contingency Fund** was \$10,020 for the survey on the economic impact of funding cuts to the courts. This expense was not in the 2012 budget and fits the description of an expenditure from the Contingency Fund in that it was unanticipated in the normal budget process and not applicable to an existing department or budget.
- ◆ Unless there is a case looming at great cost to the bar, the board may reconsider the amount in the contingency for **Contract Legal Fees**. At the beginning of the year the contingency balance was \$250,642. To date, the bar has expended \$8,976 from the budget line item. Any amount not expended under \$50,000 will be added to this contingency if previous practice continues.

## What's Selling in CLE Seminars?

Revenue for **Seminars** is typically low during the summer months also. Although changes are forthcoming that plan to reverse the decline in revenue, the numbers don't reflect much change yet.

Revenue Source	Revenue Seven Mos 2012	Change 2011 to 2012	Change 2010 to 2011
Live Registrations	\$265,083	( 5.9%)	( 1.8%)
Season Tickets	\$153,717	( 0.1%)	(20.9%)
Online Audio/Video	\$ 63,529	12.6%	85.9%
Sales - CDs, DVDs	\$ 59,362	( 6.1%)	(15.0%)
Rentals - CDs, DVDs	\$ 51,508	(11.7%)	( 6.0%)
All Revenue	\$599,788	( 3.9%)	( 5.8%)

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# OREGON STATE BAR

## Board of Governors Agenda

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**Meeting Date:** August 24, 2012  
**Memo Date:** August 10, 2012  
**From:** Rod Wegener, CFO  
**Re:** Revision to Investment Policy in Bylaw 7.402

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### Action Recommended

Approve the recommendation of the Budget & Finance Committee to revise the list of approved investments in bylaw 7.402.

### Background

The Board of Governors earlier approved the Budget & Finance Committee's recommendation to revise the bar's investment policy. However, it was later determined that two of the asset classes recommended were actually the same class, only with different titles. To formalize the revision, below is the revised policy approved by the Committee at its July 27 meeting.

#### OSB Bylaw 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.
- (h) Mutual funds in these asset classes: high-yield bonds, emerging market bonds, international small capitalization equities, and diversified commodities.**
- ~~(i) Federal deposit insurance corporation insured accounts.~~
- ~~(j) Individual public-traded stocks, excluding margin transactions, short sales, and derivatives.~~
- ~~(j) Small capitalization international equities.~~
- ~~(k) Emerging markets fixed income.~~

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# OREGON STATE BAR

## Board of Governors Agenda

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**Meeting Date:** August 24, 2012  
**Memo Date:** August 10, 2012  
**From:** Rod Wegener, CFO  
**Re:** 2013 Executive Summary Budget Report

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### **Action Recommended**

Respond to any recommendations from the Budget & Finance Committee upon its next review of the 2013 Executive Budget Summary.

### **Background**

Following this memo is the seven-page, first-look report of the 2013 budget. The report is followed by two related exhibits. The Budget & Finance Committee reviewed the first draft of the report at its July 27 meeting and will again prior to the August 24 board meeting.

The budget in this report is built on historical information, trends, and assumptions. This data leads to an estimated net operating expense of \$455,000 for 2013. The Committee will be reviewing and acting on the issues listed in Exhibit B, "2013 Issues Worksheet." Any recommendations from the next review will be reported to the board.

## EXECUTIVE SUMMARY BUDGET

*Report to the Board of Governors  
August 24, 2012*

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**PURPOSE OF THIS REPORT**

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The purpose of the Executive Summary budget is a “first look” at the 2013 budget and identify and evaluate the fiscal implications in developing next year’s budget and subsequent years’ forecasts and to consider:

- new or revised policy approved by the board;
- planning or recommendations of the various board committees;
- new programs or modifications to current programming;
- the projected year and amount of the next member fee increase;
- the impact of financial decisions today on future budgets.

This 2013 budget and subsequent forecasts are developed on anticipated trends, percentage increases, and various assumptions with the 2012 budget as the base. This report intends only to help work toward the final 2013 budget.

The Budget & Finance Committee reviewed a similar report and forecast at its

July 27 meeting and again prior to this board meeting.

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**CONTENTS**

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1. Budget Development Calendar
2. Summary of 2011 and 2012 Budgets
3. Assumptions in Developing 2013 Budget
4. Program, Policy, and Operational Considerations for 2013
5. Fanno Creek Place
6. Summarizing the 2013 Budget at this First Look
7. Client Security Fund Assessment  
**[Exhibit A]**
8. Reserves and Other Contingency Funds
9. 2013 Issues Worksheet  
**[Exhibit B]**
10. Recommendations of the Budget & Finance Committee to the Board of Governors  
**[Exhibit C]** – 2013 Budget and Five-Year Forecast

# 1 BUDGET DEVELOPMENT CALENDAR

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Date	Process
July 27	<b>Budget &amp; Finance Committee</b> reviews the 2013 Executive Summary Budget
August 24	The <b>Board of Governors</b> reviews the Budget & Finance Committee's report of the 2013 Executive Summary Budget
September to Early October	Bar <b>staff</b> prepare 2013 line by line program/department budgets
October 12	<b>Budget &amp; Finance Committee</b> reviews the 2013 Budget Report. Decision on Member Fee increase.
Mid October to late October	Bar <b>staff</b> refine 2013 budget
November 2	<b>House of Delegates</b> meeting. Action on Fee resolution (if increase approved by the BOG).
November 9	<b>Budget &amp; Finance Committee</b> review revised 2013 Budget Report
November 9-10	<b>Board of Governors</b> reviews and approves 2013 Budget

# 2 SUMMARY OF 2011 AND 2012 BUDGETS

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Before we look at 2013, here is a summary of the last two budget years.

2011 Financial Report
<ul style="list-style-type: none"> <li>▶ Net Operating Revenue was \$395,350 – about the same as the budgeted net revenue - <u>except</u> no funds were allocated from the bar's reserves even though the budget included \$400,000.</li> <li>▶ The Fanno Creek Place Net Expense was \$561,104 - \$203,000 under budget as two lease terminations created one-time revenue.</li> <li>▶ Membership Fee revenue was \$183,588 more than the previous year. This probably was the highest increase in membership fee revenue from the previous year in a year with no fee increase.</li> <li>▶ Revenue included a \$300,000 grant from the PLF for BarBooks.</li> <li>▶ All expense categories finished under budget and program and administrative expenses were 13.5% under budget.</li> <li>▶ Admissions, the Bulletin, and the MCLE departments all had net operating revenue.</li> </ul>

### 2012 Budget Highlights

- ▶ The operation budget is a net revenue of \$33,206 including allocating \$200,000 from reserves to operating revenue.
- ▶ There is no change in the active member fee for the seventh consecutive year.
- ▶ The PLF grant for BarBooks decreases to \$200,000 from \$300,000.
- ▶ The salary pool is 2% and the higher PERS rate is in effect for all of 2012.
- ▶ Non-personnel costs are expected to decline 2.2%.
- ▶ Funding of \$18,000 was approved for an economic survey of the membership.
- ▶ A new revenue item is \$50,000 in fees from those completing the New Lawyer Mentoring Program.

## 3 ASSUMPTIONS IN DEVELOPING THE 2013 BUDGET

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The 2013 budget and the forecasts for bar operations are prepared with these assumptions:

### ■ Member Fee Revenue

There is no increase in the active Member Fee in 2013 in this draft of the budget.

For the past few years revenue from Membership Fees increased 2.25% to 2.5% a year. Due to the decline in the number of bar exam applicants, the increase for 2013 is projected at 2.0%. This increase adds approximately \$139,000 in revenue.

### ■ Program Fee Revenue

The larger non-dues revenue activities have had a fluctuating financial history the last two years for various reasons. With the ups and downs compared to 2011 and the 2012 budget, it is too early to project a reasonable amount for 2013; thus the same amount as 2012 is included in this 2013 projection. Here are the higher-revenue activities with expected volatility.

- ... Bar exam applications are declining – at one point 16% lower from 2011 to 2012. The national and local economy and data from law schools indicate fewer enter the profession. This trend change cause a double hit – lower revenue in Admissions, and lower member fee revenue if fewer applicants pass the bar exam and become bar members.
- ... Sales of print legal publications dropped dramatically in 2011 with the onset of online BarBooks. Sales in 2012 already have exceeded the budget and are on pace to exceed 2011 sales.
- ... Although CLE Seminars revenue has consistently declined for the past few years, revenue is higher this year than a year ago. The department is making numerous changes in events and delivery of its products and that impact is premature to predict.

... Lawyer Referral revenue will decline from 2011 to 2012 with the start of the percentage fee model. The decline probably will be as high as 25% in 2012. Thereafter it is expected to gradually increase.

There is no “percentage fee” revenue included in the 2012 budget. Based on projections with the evaluation of the new funding model, revenue will be \$55,000 in 2013 and gradually increase.

... Some revenue from the New Lawyers Mentoring Training program will materialize in 2012 and possibly be as high as \$60,000 annually (\$100 fee from 600 members).

... MCLE and advertising revenue in the Bulletin and the Resource Directory are projected to remain stable.

**■ Investment Income**

Investment income also is projected to be similar to 2012 as interest rates are projected to have little change. What could change this is higher - or lower - returns on the funds managed by the investment managers.

**■ Salaries, Taxes & Benefits**

The salary pool for 2013 included is 2%. This pool is the recommendation of the bar Executive Director and the PLF CEO.

- The 2% increase approximates \$110,000 in additional salaries.
- The salary pool increase for the year has been: 2012 – 2%; 2011 – 3%; 2010 – 3%; 2009 - 3% (although a smaller rate for exempt and higher rate for non-exempt employees); 2008 - 4%; 2007 - 5%.
- The employer’s rate for PERS will change July 1, 2013. The correspondence from PERS last November indicates using the rates below for budgeting purposes. However, those rates are from December 31, 2000 and will undoubtedly change.

Beginning July 1/Rate	Tier 1&2	OPSRP	The rates for 2013 are estimates provided by PERS from November 2011. Final rates are expected this September.
2005	12.30%	8.04%	
2007	4.33%	5.82%	
2009	2.06%	2.84%	
2011	9.55%	8.05%	
2013 **	12.80%	11.07%	

- The 2% salary pool and the expected PERS rate increase add an estimated \$332,000 to the 2013 budget. Approximately 2/3 of that increase is due to the PERS cost.

**■ Direct Program and General & Administrative Expenses**

For the sake of this summary budget, these costs vary between no change to a 1-1/2% increase. These costs have declined the past two years, but whether that continues into 2013 will not be known until the line item budgets are prepared.

... Eliminated from the 2012 budget is \$18,000 for the economic survey.

This budget does not include any expenditures for the centralized legal notice system after the vote not to proceed with the plan.

## **4** PROGRAM, POLICY, AND OPERATIONAL CONSIDERATIONS FOR 2013

The items in this section are changes or continuation in the 2013 budget for which the Committee should approve or not approve.

These items have been in the budget in recent years, some for several years.

- 1. *Grant to Campaign for Equal Justice - \$45,000***
- 2. *Grant to Classroom Law Project - \$20,000***
- 3. *Council on Court Procedures - \$4,000***
- 4. *Online Legal Research Library - \$116,000***

The bar expects to renew its contract with Fastcase for the online legal research library. The agreement expires September 2012. The budget is predicated on a 5% subscription increase, but the bar has not started negotiation and is looking for other value added to the library.

- 5. *Senior Lawyer Task Force – Placeholder amount of \$10,000***
- 6. *Remote Communications Task Force – Placeholder amount of \$10,00***

## **5** FANNO CREEK PLACE

Little change is expected in the Fanno Creek Place budget from 2012 to 2013. The net expense is \$668,000 and the cash flow is a negative \$375,000 – both of which are in line with expectations (see page 2 of Exhibit A). The budget includes these assumptions:

- The bar receives a full year's rent from the existing tenants - PLF, Joffe Medi-Center, and Zip Realty. The currently vacant 4,000 s.f. on the first floor is expected to be fully leased.
- Operating costs increase minimally.

## **6** SUMMARIZING THE 2013 BUDGET AT THIS FIRST LOOK

The result of this first draft of the 2013 budget with the assumptions and trends included is a **Net Operating Expense of \$455,000.**

- Operating with a \$455,000 deficit budget is not practical or wise. The obvious reaction is to increase revenue and/or decrease expenses. In the two previous budgets, the budget was balanced with an **allocation from reserves.**

Reserves of \$400,000 were allocated to balance the 2011 budget, but none were needed. The 2012 budget included \$200,000 to balance the budget, and it is unknown yet whether those funds are needed.

- There is **no membership fee increase** in this draft of the 2013 budget.
- **Membership Fee revenue from existing and new members** is projected to increase \$139,000. However, this increase is lower than recent years (the increase from 2011 to the 2012 budget was \$181,000) since growth in membership is expected to be slower.
- Due to the recent fluctuations in most programs with high **non-dues revenue**, this budget includes no change in these sources of revenue from 2012.
- The **PLF grant for BarBooks** declines from \$200,000 to \$100,000. The three-year commitment ends with 2013.
- Revenue from the **new Lawyer Referral funding model** is expected in 2013. The amount included in 2013 (\$55,000) and subsequent years are the estimates based on conversations with lawyer referral start-ups at other bar associations.
- A **2% salary pool** adds approximately \$110,000 to the expense budget.
- The **increase in PERS rates** could add approximately \$200,000 to the budget in 2013.
- This first draft does not include a change in most **non-personnel expenditures** for 2013, or a small increase in some areas. These costs have been declining for the past three years and whether that can continue is unknown.

Once the budget process begins for the bar managers, each will be asked to identify how their respective department budget can be reduced by a certain percentage.



***With no active general member fee increase in 2013, it will be the eighth consecutive year with no increase.***

***Never before since 1935 has the bar gone that many years without a general member fee increase.***

## **7** CLIENT SECURITY FUND ASSESSMENT

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**Exhibit A** is a July 24 memo from Sylvia Stevens, which is the recommendation from the Client Security Fund Committee to raise the CSF assessment from the current \$15.00 to \$45.00 and “kept there until a sufficient reserve is rebuilt by additional annual assessments.” This increase will generate an approximately \$440,000 more in assessment revenue in 2013.

Based on the expected claims still to be made in 2012, and with the normal budget of claims in 2013, the fund balance will approximate \$160,000 at the end of 2013 – still well below the CSF Committee’s reserve target of \$500,000.

## 8 RESERVES AND OTHER CONTINGENCY FUNDS

The two reserves connected to the operating budget are the Operating Reserve and the Capital Reserve.

The *Operating Reserve* policy is fixed at \$500,000 since the approval of the Executive Summary Budget in 1999. The *Capital Reserve* is \$500,000 (reduced by \$100,000 for 2011) and is based on the expected equipment and capital improvement needs of the bar in the future.

All other reserves, fund balances, and contingencies – *fund balances for Affirmative Action, CSF, Legal Services, and sections* and the Board Designated Funds - are not factored into this budget summary and forecasts since they are either restricted or designated by board action.

	Balance January 1, 2012
<b>Fund, Reserve or Contingency</b>	
<b>Board Designated</b>	
LRAP	\$ 59,781
Contract Legal Fees	250,642
Landlord Contingency	415,333
PERS Contingency	334,288
Operating Reserve	500,000
Capital Reserve	500,000
<b>Total Board Designated</b>	<b>\$ 2,060,044</b>
<b>All Restricted Funds</b>	<b>1,482,414</b>
<b>Total Restricted and Designated Funds</b>	<b>3,542,458</b>
<b>Funds Available</b>	<b>3,998,541</b>
<b>Excess Reserve Funds</b>	<b>\$ 456,083</b>

At January 1, 2012, the accumulated total of the board designated funds was \$2.060 million.

Comparing the total of all board designated and restricted funds at the beginning of fiscal 2012, the excess of funds held in the reserve accounts was \$456,000 more than the requirements.

## 9 2013 ISSUES WORKSHEET

**Exhibit B** is a list of the issues that will be addressed at some stage of the 2013 budget development. Are there others?

The Budget & Finance Committee will review the issues and make any recommendations to the Board of Governors if appropriate now, or provide direction to bar staff in the next stages of the budget development.

## 10 RECOMMENDATIONS OF THE BUDGET & FINANCE COMMITTEE TO THE BOARD OF GOVERNORS

With the issues identified in the “2012 Issues Worksheet,” or any other issues, what are the recommendations to the Board of Governors at this stage of the 2013 budget development?

# OREGON STATE BAR

## Budget & Finance Committee Agenda

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**Meeting Date:** July 24, 2012  
**From:** Sylvia E. Stevens, Executive Director  
**Re:** CSF Committee Recommendation for 2013 Assessment

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### Action Recommended

Consider the recommendation of the Client Security Fund Committee that the CSF assessment for 2013 be raised from the current \$15 to \$45.

### Background

ORS 9.645 authorizes the Board of Governors to assess active member of the bar “to establish and maintain a client security fund....” The assessment is not subject to approval by the membership. Over the Client Security Fund’s history, the assessment has ranged from \$3.00 at inception to \$25.00 (1990 through 1993 and 1997). For seven years between 2003 through 2008, the assessment was \$5.00. That was a time during which claims were low and the Fund was considerably more than fully reserved. The BOG increased the assessment to \$15.00 in 2009 as the reserve approached its minimum of \$500,000.

There has been only one occasion in the 40+ year history of the Fund when the Fund balance was insufficient to cover claims. That was in 1989 and it precipitated the doubling of the assessment from \$12.50 to \$25.00. It also ultimately resulted in the 1993 decision to establish a reserve for the Fund. The reserve is equal to:

3 x the average of claims paid in the 2 highest of the last 5 years *or*  
\$500,000.

For most of the Fund’s history, the total claims paid in one year has been less than \$150,000. In 2009 the fund paid out \$154,000 in claims and in 2010 it paid claims totaling \$177,442. In 2011, the claims paid total was \$115,000.

2012 is unprecedented. As of July 19, 2012, the Fund has received 45 new claims totaling \$1,205,910.12<sup>1</sup> of which \$1,174,430.20 are from former clients of Bryan Gruetter. As of July 19, 2012, the balance of outstanding claims is \$863,828.05<sup>2</sup> and the fund balance is approximately \$600,000. Payment of the outstanding claims will deplete the Fund and leave it “in the red” by approximately \$263,000 going into 2013.<sup>3</sup>

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<sup>1</sup> After application of the per claim cap of \$50,000, the potential exposure to the Fund is \$882,984.65.

<sup>2</sup> This is exclusive of the claims approved by the BOG at its June 2012 meeting; there will be another \$292,127.45 in recommended awards for the BOG’s approval in August. It also includes 1 claim carried over from 2010 and 6 from 2011.

<sup>3</sup> The shortfall will of course be more if we receive and process many more claims in 2012. We anticipate receive quite a few claims from disbarred attorney Jason McBride, but as yet, the dollar amounts don’t appear too large.

In developing its 2013 assessment recommendation, the Committee looked at the following scenarios:

2013 Assessment	\$15	\$30	\$35	\$40	\$45	\$50/\$15**
Assessment Revenue*	\$220,000	\$440,000	\$513,310	\$586,600	\$659,970	\$684,000
2011 Shortfall	(\$240,000)	(\$240,000)	(\$240,000)	(\$240,000)	(\$240,000)	(\$240,000)
Operating Expense	(\$60,000)	(\$60,000)	(\$60,000)	(\$60,000)	(\$60,000)	(\$60,000)
Estimated Claims	(\$200,000)	(\$200,000)	(\$200,000)	(\$200,000)	(\$200,000)	(\$200,000)
<i>Balance for Reserves</i>	(\$280,000)	(\$60,000)	\$13,310	\$86,600	\$159,970	\$184,000

Notes: \*Based on 14,666 active members, the number who paid into the Fund in 2012.  
 \*\*\$50 for members admitted before 2011 (13,266) and \$15 for members admitted after 2011 (1,400).

Continuing the assessment at \$15 or even doubling it to \$30 will be insufficient to put the Fund back in the black, pay the operating expenses of the Fund, and pay estimated new claims. A \$35 assessment should leave some net revenue to begin rebuilding reserves, but at \$13,000 per year it would take nearly 40 years to bring the reserve to \$500,000.<sup>4</sup> The two-tier assessment model seemed unnecessarily complicated and there was concern that the \$50 figure would generate some push-back from members if only from the psychological impact.

After considerable discussion, the Committee voted unanimously to recommend that the CSF assessment be raised to \$45 for 2013 and kept there until a sufficient reserve is rebuilt by additional annual assessments and (it is hoped) investment returns. The Committee was aware of the BOG's desire to keep the annual fees below \$500 (with a \$45 CSF assessment, the total annual fees would be \$522 in 2013). However, the Committee is confident that most members will accept the modest \$30 increase in the assessment as a small price to pay for the enormous good will generated by the CSF, its enhancement of the public perception of lawyers, and the important role it plays in fulfilling the bar's public protection role.

<sup>4</sup> The Committee encourages the BOG to make an exception to the reserve requirement for the next few years because of the anomaly that is 2012 and build it to \$500,000 rather than a multiplier of the highest 2 claim years of the last 5.

# 9

## 2013 ISSUES WORKSHEET

Issue	Supporting Information	Approved		
		Yes	No	Other
<b>Revenue</b>				
Should the <b>active member fee</b> be increased in 2013?	An active member fee increase of \$50.00 would generate \$720,000 additional revenue in 2013 (a \$60.00 increase adds \$864,000). A \$50.00 increase is included in the 2014 forecast.  The last general fee increase was in 2006.			The current fees are: General                   \$447.00 Diversity & Inclusion    30.00 CSF <u>15.00</u> Total                       \$492.00
What, if any, amount of <b>reserves</b> should be included in the 2013 budget?	\$400,000 from reserves was allocated to operating revenue in 2011, but not needed; \$200,000 was allocated for 2012.			
Should the bar approach the <b>PLF about extending its grant</b> for BarBooks?	The PLF grant was \$300,000 in 2011; \$200,000 in 2012; \$100,000 in 2013, and then the grant ends.			
Should the <b>inactive member fee</b> be increased in 2013 or a future year?	The last inactive fee increase was from \$80.00 to \$110.00 in 2002; each \$10.00 generates approximately \$41,000 in additional revenue (assuming no resignations).			
Should the <b>Client Security Fund assessment</b> be increased from \$15.00 to \$45.00?	The CSF Committee recommended a \$30.00 increase at its July 14 meeting and further added the assessment at \$45.00 be "kept there until a sufficient reserve is rebuilt by additional annual assessments."			Any change in the 2013 assessment should be made at the August 24 or the special September 28 meeting to allow the fee statement to record any new amount.

**Expenditures**

Should the carryover <b>grants for the Campaign for Equal Justice and the Classroom Law Project</b> be continued?	The bar has granted \$45,000 to the CEJ and \$20,000 to the CLP for the past several years			
Should the allocations for the <b>Senior Lawyer and the Remote Communications task forces</b> be continued?	The budget has included \$10,000 for each task force in 2011 and 2012, but has expended no funds.			
Should there be a <b>reduction in services and/or operations</b> to members to help balance the budget?	Bar managers will be asked to identify a reduction or elimination of personnel, program, and/or administrative expenses during the budget development process.			
Should there be a <b>salary pool</b> of 2% in 2013?	The pool was 2% in 2012.			
Should the bar consider an <b>alternative retirement plan</b> to PERS?	The employer’s rate for PERS will increase again mid 2013. The bar created an amendment to ORS 9.080 in 2004 to begin an alternative retirement plan for staff beginning employment on or after January 1, 2006. The plan was rejected by the governor.			

**Other Budget Related Matters**

<p><b>Non-member fee revenue</b></p>	<p>The first draft of the 2013 budget includes no change in the revenue of all other major revenue programs – Admissions, CLE Seminars, Legal Publications, the Bulletin, MCLE – due to the changes in operations or economic forces.</p>			<p>These 2013 revenue projections will be available from the department managers in the second half of September.</p>
<p>Change in <b>Lawyer Referral</b> funding model</p>	<p>The new funding model should generate revenue in 2013, and based on projections create enough revenue to break even by 2016. There has been an approximate drop of 25% in registration income in 2012, but is expected to increase year over year.</p>			
<p>Volatility in the <b>investment portfolio</b></p>	<p>The investment portfolio is a source of income and a growth in market value adding to bar reserves, but forces beyond the bar’s control can change this. The forecast includes a modest 3.5% average annual market value increase.</p>			
<p><b>Service charge to sections</b></p>	<p>Subsection 15.400 of the OSB bylaws states in part: <i>The Bar charges each section a per capita fee equal to 50 percent of the cost of providing services to the sections. This fee is recalculated periodically as determined by the Executive Director.</i></p> <p>The last increase was in 2010 when the charge was increased to \$6.50. The charge has been increased every 3 to 5 years.</p>			<p>Historically there are complaints from some sections when this charge is increased. The bar prepares a budget of related expenses, cuts the amount in half, and then divides by the number of section members. With costs not increasing much in the past three years, a large increase is not expected.</p> <p>If the charge is changed, that decision should be now to adequately inform sections of the new charge for the preparation of their 2013 budgets.</p>

<p>Will the <b>PLF</b> recommend an <b>assessment</b> increase for 2013?</p>	<p>PLF management is waiting for the latest actuarial report before making any decision on the PLF assessment. Per the PLF CEO an increase for 2013 is unlikely.</p>			
<p><b>Future years' budgets</b></p>	<p>Under the existing forecast, the bar would need to use the operating and/or capital reserves to balance the budget as soon as 2015, and will have a deficit operating budget in 2017.(See <b>Exhibit C</b>). The lower than previous years' net operating revenue numbers in 2014 to 2016 cause the tight financial conditions.</p>			

Operations

August-12

Proposed Fee increase for Year		\$0	\$50	\$0	\$0	\$0	\$0
Operations	BUDGET	BUDGET	F O R E C A S T				
	2012	2013	2014	2015	2016	2017	2018
<b>REVENUE</b>							
MEMBER FEES							
General Fund	\$6,959,700	\$7,098,900	\$7,259,000	\$8,184,000	\$8,368,000	\$8,577,000	\$8,770,000
Active (\$50); Inactive (\$0) Increase			725,000				
% of Total Revenue	63.9%	65.7%	67.8%	68.2%	67.4%	67.5%	67.7%
PROGRAM FEES:							
CLE Seminars	1,367,840	1,367,840	1,367,840	1,381,518	1,395,334	1,409,287	1,430,426
Legal Publications	122,700	122,700	75,000	50,000	25,000	20,000	20,000
Reallocation of Reserves	200,000	0	0	0	0	0	0
PLF Contribution	200,000	100,000	100,000	0	0	0	0
All Other Programs	1,902,427	1,902,427	1,940,500	1,979,300	2,018,900	2,059,300	2,084,000
New RIS Model		55,000	125,000	170,000	330,000	330,000	330,000
Total Program Fees	3,792,967	3,547,967	3,608,340	3,580,818	3,769,234	3,818,587	3,864,426
OTHER INCOME							
Investment Income	107,700	119,600	157,900	218,000	265,700	284,500	304,200
Other	36,100	36,100	17,100	17,800	18,500	19,200	20,000
TOTAL REVENUE	10,896,467	10,802,567	11,767,340	12,000,618	12,421,434	12,699,287	12,958,626
<b>EXPENDITURES</b>							
SALARIES & BENEFITS							
Salaries - Regular (2% Pool)	5,504,500	5,614,600	5,718,700	5,881,900	6,049,700	6,222,200	6,399,600
Benefits - Regular	2,012,500	2,234,600	2,396,100	2,552,700	2,716,300	2,918,200	3,065,400
Salaries - Temp	33,424	40,000	40,000	50,000	40,000	50,000	40,000
Taxes - Temp	2,742	4,000	3,600	4,500	3,600	4,500	3,600
Total Salaries & Benefits	7,553,166	7,893,200	8,158,400	8,489,100	8,809,600	9,194,900	9,508,600
% of Total Revenue	69.3%	73.1%	69.3%	70.7%	70.9%	72.4%	73.4%
DIRECT PROGRAM:							
CLE Seminars	539,155	539,155	544,547	549,992	558,242	563,824	572,282
Legal Publications	53,165	53,165	37,000	39,000	40,000	41,000	42,000
All Other Programs	2,272,445	2,317,900	2,375,800	2,423,300	2,483,900	2,558,400	2,635,200
Total Direct Program	2,864,765	2,910,220	2,957,347	3,012,292	3,082,142	3,163,224	3,249,482
GENERAL & ADMIN	420,330	428,700	439,400	450,400	463,900	477,800	492,100
CONTINGENCY	25,000	25,000	25,000	25,000	25,000	25,000	25,000
TOTAL EXPENSES	10,863,261	11,257,120	11,580,147	11,976,792	12,380,642	12,860,924	13,275,182
NET REVENUE/(EXPENSE) - OPERATIONS	\$33,206	(\$454,553)	\$187,193	\$23,826	\$40,792	(\$161,637)	(\$316,555)

**2013 Budget**

**Five-Year Forecast**

**Fanno Creek Place**

Fanno Creek Place	BUDGET	BUDGET	F O R E C A S T				
	2012	2013	2014	2015	2016	2017	2018
<b>REVENUE</b>							
RENTAL INCOME (2011 revised)							
PLF	\$497,346	\$504,807	\$512,373	\$520,065	\$527,865	\$535,783	\$543,820
Opus Master Lease (Termination Fee)							
20/20 Institute (incl Termination Fee)							
First Floor Tenant - Zip Realty	50,640	50,640	52,160	28,460	48,200	49,200	50,200
First Floor Tenant - Joffe	126,789	126,789	128,683	130,599	132,580	138,144	140,900
New Tenants (three)	44,895	87,100	89,700	92,400	68,500	95,200	98,100
OLF	27,711	28,500	29,400	30,300	31,200	32,100	33,100
Meeting Rooms	25,000	30,000	21,000	21,000	24,000	24,000	24,000
Operating Expense Pass-through	0	0	3,000	3,100	3,200	3,300	3,400
INTEREST	2,800	2,500	3,000	4,000	5,000	3,000	4,000
TOTAL REVENUE	775,181	830,336	839,316	829,924	840,545	880,727	897,520
<b>EXPENDITURES</b>							
OPERATING EXPENSE							
Salaries & Benefits	114,800	118,200	121,700	125,400	129,200	133,100	137,100
Opus Management Fee	0						
Operations	293,819	305,600	314,800	324,200	333,900	343,900	354,200
Depreciation	505,800	505,800	510,800	510,800	510,800	520,800	520,800
Other	3,000	3,000	1,000	1,000	5,000	1,000	1,000
DEBT SERVICE							
Interest	733,185	720,901	707,655	693,699	678,884	663,158	646,462
ICA to Operations	(160,459)	(160,459)	(160,459)	(164,500)	(164,500)	(164,500)	(164,500)
TOTAL EXPENSES	1,490,145	1,493,042	1,495,496	1,490,599	1,493,284	1,497,458	1,495,062
<b>NET REVENUE/(EXPENSE) - FC Place</b>	<b>(\$714,964)</b>	<b>(\$662,706)</b>	<b>(\$656,180)</b>	<b>(\$660,675)</b>	<b>(\$652,739)</b>	<b>(\$616,731)</b>	<b>(\$597,542)</b>
<b>ACCRUAL TO CASH ADJUSTMENT</b>							
SOURCES OF FUNDS							
Depreciation Expense	505,800	505,800	510,800	510,800	510,800	520,800	520,800
Landlord Contingency Fund						200,000	
Loan Proceeds							
USES OF FUNDS							
Assign PLF Subtenants' Leases (Net)							
TI's - First and Third Floors							
Principal Pmts - Mortgage	(201,123)	(213,507)	(226,653)	(240,609)	(255,424)	(271,150)	(287,846)
<b>NET CASH FLOW - FC Place</b>	<b>(\$410,287)</b>	<b>(\$370,413)</b>	<b>(\$372,033)</b>	<b>(\$390,484)</b>	<b>(\$397,363)</b>	<b>(\$167,081)</b>	<b>(\$364,588)</b>

Funds Available/Reserve Requirement

	BUDGET	BUDGET	F O R E C A S T				
	2012	2013	2014	2015	2016	2017	2018
<b>FUNDS AVAILABLE</b>							
Funds Available - Beginning of Year	\$ 1,537,351	\$1,496,210	\$1,071,564	\$1,130,124	\$999,667	\$784,196	\$453,577
<b>SOURCES OF FUNDS</b>							
Net Revenue/(Expense) from operations	33,206	(454,553)	187,193	23,826	40,792	(161,637)	(316,555)
Depreciation Expense	283,700	283,700	289,400	295,200	301,100	304,100	307,100
Provision for Bad Debts	25,000	25,000	25,000	25,000	25,000	25,000	25,000
Increase in Investment Portfolio MV	71,000	71,000	77,000	90,000	0	117,000	140,000
Allocation of PERS Reserve	222,000	222,000					
Projected HIGHER Net Operating Revenue							
<b>USES OF FUNDS</b>							
Capital Expenditures	(62,700)	(62,700)	(70,000)	(80,000)	(80,000)	(120,000)	(80,000)
Capital Reserve Expenditures	(21,500)	(21,500)	(25,000)	(40,000)	(50,000)	(75,000)	(50,000)
Capital Expenditures - New Building	(50,000)	(50,000)	(50,000)	(50,000)	(50,000)	(50,000)	(50,000)
Capital Reserve Expenditures - New Building						(200,000)	
Landlord Contingency Interest	(2,800)	(2,800)	(3,000)	(4,000)	(5,000)	(3,000)	(4,000)
Net Cash Flow - Fanno Creek Place	(410,287)	(370,413)	(372,033)	(390,484)	(397,363)	(167,081)	(364,588)
Addition to PERS Reserve	(128,760)	(64,380)					
Projected LOWER Net Operating Revenue	0						
<b>CHANGE IN FUNDS AVAILABLE</b>	<b>(41,141)</b>	<b>(424,646)</b>	<b>58,560</b>	<b>(130,458)</b>	<b>(215,471)</b>	<b>(330,619)</b>	<b>(393,044)</b>
<b>Funds Available - End of Year</b>	<b>\$1,496,210</b>	<b>\$1,071,564</b>	<b>\$1,130,124</b>	<b>\$999,667</b>	<b>\$784,196</b>	<b>\$453,577</b>	<b>\$60,533</b>
<b>RESERVE REQUIREMENT</b>							
Operating Reserve	500,000	500,000	500,000	500,000	500,000	500,000	500,000
Capital Reserve	500,000	500,000	500,000	525,000	550,000	575,000	600,000
<b>Total - Reserve Requirement</b>	<b>\$1,000,000</b>	<b>\$1,000,000</b>	<b>\$1,000,000</b>	<b>\$1,025,000</b>	<b>\$1,050,000</b>	<b>\$1,075,000</b>	<b>\$1,100,000</b>
<b>RESERVE VARIANCE</b>							
Over/(Under) Reserve Requirement	\$496,210	\$71,564	\$130,124	(\$25,333)	(\$265,804)	(\$621,423)	(\$1,039,467)
<b>Reconciliation Cash to Accrual</b>							
	BUDGET	BUDGET	F O R E C A S T				
	2012	2013	2014	2015	2016	2017	2018
<b>NET REVENUE/(EXPENSE) - Operations</b>	33,206	(454,553)	187,193	23,826	40,792	(161,637)	(316,555)
<b>NET REVENUE/(EXPENSE) - FC Place</b>	(714,964)	(662,706)	(656,180)	(660,675)	(652,739)	(616,731)	(597,542)
<b>NET REVENUE/(EXPENSE) - OSB</b>	(\$681,758)	(\$1,117,259)	(\$468,987)	(\$636,849)	(\$611,947)	(\$778,369)	(\$914,098)

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# OREGON STATE BAR

## Board of Governors Agenda

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**Meeting Date:** August 24, 2012  
**Memo Date:** August 6, 2012  
**From:** Ann Fisher, Policy & Governance Committee Chair  
**Re:** Amendments to OSB Standard Section Bylaws

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### **Action Recommended**

The Policy & Governance Committee recommends that the Board adopt the attached amendments to the OSB Standard Section Bylaws.

### **Background**

As required by the Standard Section Bylaws, in late March the Member Services Department sent section executive committee members proposed standards section bylaw changes with a request for feedback. The following proposed bylaw changes have incorporated feedback received from section executive committee members, OSB General Counsel's Office, and the Member Services Committee of the BOG. The amendments provide for more meeting flexibility and clarify the procedure for sunseting a section. Additional housekeeping changes are also proposed.

## Standard Section Bylaws

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#### Article I Definition And Purpose

**Section 1.** Sections provide Bar members who share interests in particular substantive areas of law an opportunity to develop and improve skills and provide a forum for communication and action in matters of common interest.

**Section 2.** Sections may adopt a statement of purpose.

**Section 3.** The Section shall not participate in or take a position with respect to the election or appointment of a candidate for any public office.

#### Article II Membership

**Section 1.** Any active or inactive member of the Oregon State Bar may be a regular member upon payment of the membership dues. Any active member of another state bar may be an out-of-state member. Sections are encouraged to offer complimentary membership to 50-year members and to judges and their lawyer staff. Nonlawyers may be associate members as provided in Section 2 of this Article. Only regular members may vote and hold office except as otherwise specifically approved by the Section membership and the Board of Governors.

Section 2.

(A). Associate membership shall be available to: (1) employees of an Oregon lawyer or employees of the legal department of a corporation or government entity who are supervised by an Oregon lawyer, (2) law students, and (3) members of related professions.

(B). Out-of-state members as defined in Section 1 and associate members as defined in Section 2(A) are automatically entitled to membership upon payment of section dues unless the Section votes at its annual meeting to “opt out” and not include either out-of-state members or associate members.

(C). Out-of-state members and associate members shall certify their qualifying status upon initial application for membership and annually upon renewing their membership.

(D). Out-of-state or associate membership shall terminate immediately upon the termination of the member’s qualifying status. There shall be no refund of dues in that event.

**Section 3.** Membership dues shall be set by the membership of the Section at the annual meeting of the Section or by mail or electronic ballot, subject to subsequent approval of the Board of Governors. Membership dues shall not be prorated for any portion of a year. Dues may be waived for new admittees, law students or any other category designated by the Section. Membership dues for members of the Oregon State Bar shall be collected annually by the Bar with Bar membership fees.

### Article III Meetings of Section

**Section 1.** Meetings of the Section (including meetings of the Executive Committee and its committees) are subject to the Public Meetings Law (ORS 192.610 et seq. and 192.630(4)). ORS 192.630(4) requires that meetings of a public body be held within the geographic boundaries of the state. The Section shall notify the Bar at least twenty (20) days in advance of any meeting, or in the case of special meetings as soon as possible.

**Section 2.** The Section shall hold at least one membership meeting annually for the purpose of conducting Section business, which meeting shall be known as the Section Annual Business Meeting. The Section Annual Business Meeting may be held ~~electronically in conjunction with the Annual House of Delegates Meeting of the Oregon State Bar.~~ Sections shall elect officers and executive committee members by November 15, ~~either at the Section Annual Meeting or by a mail or electronic ballot election.~~

**Section 3.** Special meetings of the Section may be scheduled from time to time by the Section Executive Committee.

**Section 4.** A quorum is required to conduct Section Business ~~at all meetings of the Section~~ ~~the Section Annual Business Meeting.~~ ~~At Section meetings other than Section Executive Committee meetings,~~ ~~those members present voting participating in the vote~~ ~~voting~~ shall constitute a quorum. ~~Action and -action at a meeting of the Section~~ shall be by majority of those voting.

**Section 5.** A report to the Section membership shall be ~~included in-~~ presented at the meeting ~~notice~~ and shall include information about the Section’s activities and use of dues for the previous calendar year, the activities and use of dues contemplated for the next year, the status of the Section’s finances, its budget, long range plan and fiscal reserve policy.

**Section 6.** The Section shall sponsor or co-sponsor not ~~less-fewer~~ than one continuing legal education program every two years. The CLE program may, but need not, be held in conjunction with the Section’s Annual Business Meeting. Sections are encouraged to offer complimentary CLE admission to 50-year members and to judges and their lawyer staff.

### Article IV Officers

**Section 1.** The officers of the Section shall be the Chair, Chair-Elect, Immediate Past Chair, Secretary, Treasurer and such other officers as may be determined to be necessary by the membership. Officers of the Section shall be active members of the Oregon State Bar. Sections may establish eligibility-requirements or other procedures to ensure rotation of the Chair among specific groups or specialty areas of the membership, such as plaintiff or defense counsel.

**Section 2.** The Chair, or the Chair-Elect in the absence of the Chair, shall preside at all meetings of the Section and of the Section Executive Committee. The Chair shall appoint the officers and members of all committees of the Section pursuant to Article VII; plan and monitor the programs of the Section; keep the Section Executive Committee informed and carry out its decisions; and perform such other duties as may be designated by the Section Executive Committee. The Chair shall serve as an ex officio voting member of the Oregon State Bar House of Delegates. In the event the section chair serves in another ex officio House of Delegates capacity, the chair-elect shall serve in the chair's stead at the House of Delegates' annual meeting as provided in the House of Delegates Rules of Procedure.

**Section 3.** The Chair-Elect will become the Chair on January 1 regardless of the date of the Section Annual Business Meeting or, regardless of the date of the mailed or electronic ballot election. The Chair-Elect shall aid the Chair in the performance of the Chair's responsibilities, and shall perform such other duties as may be designated by the Section Executive Committee. In the event of the death, disability, or resignation of the Chair, the Chair-Elect shall perform the duties of the Chair for the remainder of the Chair's term or disability.

**Section 4.** The Secretary shall retain and maintain all books, papers, documents and other property pertaining to the work of the Section, and shall keep a true record of proceedings of all meetings and votes of the Section and of the Section Executive Committee. The Secretary shall perform other duties as assigned by the Section Executive Committee.

**Section 5.** The Treasurer shall keep an accurate record of all receipts and expenditures by the Section as hereinafter provided; report on the Section's present and projected financial condition at each meeting of the Section Executive Committee; prepare an annual projected budget for approval by the Section Executive Committee; and submit a report of the Section's financial affairs and financial condition to the members at the Section Annual Business Meeting.

## Article V Section Executive Committee

**Section 1.** The Section Executive Committee shall be composed of the Chair, the Chair-Elect, the Immediate Past Chair, the Secretary, the Treasurer, and not fewer than two (2) nor more than twelve (12) Members-at-Large. The terms of the Members-at-Large shall be staggered as evenly as possible. Suspended members may not serve on the Section Executive Committee.

**Section 2.** The Section Executive Committee shall supervise and control the affairs of the Section subject to these Bylaws and the Bar's bylaws.

**Section 3.** A quorum is required to conduct Executive Committee business. A quorum shall consist of a majority of the Executive Committee. Action of the Section Executive Committee shall be by majority vote of those voting.

**Section 4.** The Chair may, and upon the request of three members of the Executive Committee shall, call meetings of the Executive Committee.

**Section 5.** Between meetings of the Section, the Section Executive Committee shall have full power to do and perform all acts and functions that the Section itself may perform. Voting on matters of Section business may be done electronically and results of an electronic vote must be recorded in the official minutes of the Section.

**Section 6.** The Section Executive Committee may direct that a matter be submitted to the members of the Section by a mail or electronic vote or by a vote at the Section Annual Business Meeting; in any such event, binding action of the Section shall be by majority of those voting.

**Section 7.** No salary or compensation for services shall be paid to any member of the Section Executive Committee or member of any committee with the exception of the Editor and other staff of the Section newsletter (if applicable). Reimbursement may be allowed for travel and other out-of-pocket expenses for members of the Section Executive Committee and members of all Section standing and special committees.

**Section 8.** The membership of the Section shall have the right to rescind or modify any action or decision by the Section Executive Committee, except for filling a vacancy in the position of Officer or Executive Committee member, and also may instruct the Section 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 Section Executive Committee shall not include the 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 Section Executive Committee must be taken at a meeting at which two-thirds of members voting approve the Motion.

## Article VI Terms of Office and Elections

**Section 1.** No member may serve on the Section Executive Committee for more than nine consecutive years.

**Section 2.** Each term of office shall begin on January 1 regardless of whether the election is held at the Section Annual Business Meeting or a mailed or electronic ballot election.

**Section 3.** A position on the executive committee, including an officer position, may be, at the option of the Executive Committee, deemed vacant if that member:

A. Fails to attend two consecutive meetings, in the absence of an excuse approved by the chair prior to the meeting; or

B. Fails to attend four consecutive meetings, even if excused.

**Section 4.** Except as provided by Article IV, Section 3, and except for the office of Chair-Elect, the Section Executive Committee shall fill by appointment until January 1 of the next year any position that becomes vacant.

**Section 5.** Any officer or Member-at-Large appointed to fill an unexpired term shall serve the unexpired period. Such members shall then be eligible at the next Section Annual Business Meeting or mail or electronic ballot election for election for a first full term, unless the member's election to the new term will result in a violation of Section 1 of this article.

**Section 6.** At the Section Annual Business Meeting or a mail or electronic ballot election, the Section membership shall elect:

A. A Chair-Elect, Secretary and Treasurer, each to serve a term of one year; and

B. Members-at-Large to serve terms of two years or less on the Section Executive Committee.

**Section 7.** The Chair-Elect will succeed to the office of Chair on January 1 and serve a term of one year. If the office of Chair-Elect is vacant at the Section Annual Business Meeting or a mail or electronic ballot election, then a Chair shall be elected by the members. No officer shall serve two successive terms in the same office, except the Treasurer. A Member-at-Large may serve no more than four consecutive years as a Member-at-Large.

**Section 8.** At least sixty (60) days prior to the Section Annual Business Meeting or a mail or electronic ballot election, the Section Executive Committee shall appoint a nominating committee of not less than three members of the Section, no more than two-thirds of whom may be on the Executive Committee. The nominating committee shall make and report to the Chair at least thirty (30) days prior to the Section Annual Business Meeting or the date of a mail or electronic ballot election one nomination for each position to be filled by election. The nominating committee shall use reasonable efforts to ensure that the members nominated reflect the diversity of the Section membership, the Oregon State Bar and community at large, taking into account all relevant factors including without limitation practice area, office location, age, gender, ~~and~~ race, ethnicity, disability and sexual orientation

**Section 9.** To the extent possible, no more than one person from the same law firm, company or department of a public agency may serve on the Executive Committee at the same time.

**Section 10.** If elections are held at the Section Annual Business Meeting, the report of the nominating committee shall be distributed to the Section membership along with the notice of the time and place of the Section Annual Business Meeting at least fourteen (14) business days in advance of the meeting. Additional nominations for any position may be made from the floor at the Section Annual Business Meeting. Elections for

contested positions may be by written ballot. Each contested position shall be set forth and voted upon separately. In a contested election, the candidate receiving the highest number of votes shall be elected.

**Section 11.** Upon approval of the Section Executive Committee, elections may be by mail or electronic ballot of the Section membership provided that: (1) write-in votes are allowed, (2) ballots are returned to an appropriate Section officer for tabulation, and (3) the results are certified to the Bar Center no later than November 15.

## Article VII Committees

**Section 1.** The Section Executive Committee may establish as many standing committees as deemed necessary and may set the names, functions, and duration of such committees. The Chair, with the approval of the Section Executive Committee, shall appoint the Chair and members of all standing committees.

**Section 2.** In addition to the standing committees provided above, the Executive Committee may appoint as many special committees for particular purposes as deemed appropriate and may set the names, functions, and duration of such committees. The Chair, with the approval of the Section Executive Committee, shall appoint the Chair and members of all special committees.

## Article VIII Legislative Activities

**Section 1.** Legislative activity of the Section, whether initiating legislation or taking positions in support or opposition of pending legislation shall be in compliance with Article 12 of the OSB Bylaws and these bylaws. The Section shall not represent to the legislature or any committee thereof a position or proposal or any bill or act as the position of the Section without the majority approval of the Section Executive Committee and the approval of the Board of Governors, except as provided otherwise below.

**Section 2.** The Section shall submit proposals for new legislation, together with the full text of the proposals to the Public Affairs Director by ~~May-April 1 of each odd-numbered year~~, or such ~~other~~ date as the Public Affairs Director shall designate. The proposal shall indicate whether the Section requests that it be presented to the legislature under the sponsorship of the Oregon State Bar or of the Section. The Board of Governors will inform the Section whether the legislation should go forward under the sponsorship of the Section or under the sponsorship of the Bar, and whether it will be presented to the House of Delegates or the membership for approval. If the Board of Governors declines to submit the Section's proposal for Bar-sponsored legislation to the House of Delegates or the membership, any member of the Section may submit the matter to the House of Delegates or the membership in accordance with ORS 9.148(3) and (4) and Article 3 of the OSB Bylaws.

**Section 3.** During regular legislative sessions the Section Executive Committee may, by majority vote, tentatively approve a position in favor of or in opposition to any pending bill within its general subject area. The proposal shall be submitted to the Bar's Public Affairs Director or the Chair of the Board of Governors Public Affairs Committee. After receipt of the proposal, the chair of the committee shall have 72 hours to approve the position or to refer it to the entire Public Affairs Committee. If the chair or committee approves the proposal, the action then becomes an official position of the Section and representatives of the Section may testify or make other appropriate statements.

**Section 4.** When special need is demonstrated, the Public Affairs Committee may expedite the introduction of new Section bills or amendments. The Public Affairs Director shall be kept informed about the status of Section legislative activity.

## Article IX Receipts and Expenditures

**Section 1.** Membership dues shall be collected by the Oregon State Bar and any other receipts of this Section shall be remitted promptly to the Oregon State Bar.

**Section 2.** The Oregon State Bar shall regularly assess the Section an amount to cover both direct and indirect costs of the Section's activities performed by the Oregon State Bar staff.

**Section 3.** Expenditure of the balance of Section funds, after such assessment, shall be as determined by the Executive Committee. Section funds shall be disbursed by the Oregon State Bar as authorized in writing by the Section's Treasurer using forms and following procedures established by the Bar. If the Treasurer is unavailable for authorization, the Section Chair may authorize disbursement of Section funds followed by written notice to the Treasurer of the action taken. Reimbursement of expenses incurred by the Treasurer or by the Treasurer's firm must be authorized in writing by the Section chair. Expenditures of Section funds shall not exceed the available Section fund balance, nor shall expenditures be in violation of laws or policies generally applicable to the Oregon State Bar.

**Section 4.** Contracts for Section newsletter editors or other providers of personal services must be reviewed and signed by the Oregon State Bar Executive Director or the Director's designee.

Section 5.

(A) The Section serves as an education, communication and networking forum in the areas of law or other law related activity for which the Board of Governors approved its establishment. If the Section receives support from the Bar on other than a fee for service basis, it shall comply with the expenditure restrictions applicable to the Bar as set forth in *Keller v. State Bar of California*, 496 US 1 (1990) and related board policies.

(B) If the Section wishes to spend Section funds free from the restrictions imposed by *Keller* and related board policies it may do so if it pays the full cost of administration and other support provided by the Bar, so that the Section is entirely self-supported by voluntary dues of its members. The Section must obtain approval of its members to such election by mail or electronic vote or at a regular or special meeting. Upon exercising its right under this policy, the Section shall be provided administrative and other services by the bar on a fee for service basis only. The election shall be effective until rescinded by a vote of the Section membership.

## Article X

### Notice of Meetings, Minutes and Reports

**Section 1.** The Chair or Secretary shall distribute notice of scheduled Section Executive Committee meetings together with an agenda and minutes of the previous meeting to all Section Executive Committee members and to the Bar at least ten (10) business days prior to such meetings, or if ten days' notice is not practicable, then such lesser notice as is practicable. ~~Typed Minutes~~ minutes of all meetings of the Section and of the Section Executive Committee shall be distributed to all members of the Section Executive Committee and to the Bar no later than thirty (30) days after the meeting and are subject to amendment and approval at the next meeting of the Section or the Section Executive Meeting.

**Section 2.** Whenever the Section 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.

**Section 3.** Not later than December 1, the Chair shall file with the Executive Director of the Oregon State Bar 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.~~

**Section 4.** A proposed annual budget and proposed annual dues for approval by the Board of Governors shall be provided to the Executive Director no later than October 15 of each year if it contains a proposal for a change in membership dues, or no later than December 1 of each year if no change in membership dues is proposed. Alternatively, this budget information may be included with the Section's annual report submitted December 1, pursuant to Section 3 of this Article.

**Section 5.** The proposed budget shall have attached to it a short description of the Section's long range plans for programs and activities which require accumulation of funds and the Executive Committee's reserve plan, including the target reserve calculated to protect the Section from foreseeable financial loss.

**Section 6.** At the request of the Board of Governors, the Section Chair shall present a report in person to the Board of Governors concerning the activities of the Section for the current and succeeding years.

## Article XI Amendments to Bylaws

**Section 1.** These Bylaws may be amended by the Board of Governors. Notice of intent to promulgate and pass Bylaw Amendments shall be given to the Section Executive Committee Chair in sufficient time to allow for review and comment. Bylaw amendments passed by the Board of Governors become effective upon passage.

**Section 2.** These Bylaws may be amended by the Section by a majority of those voting in a mail or electronic ballot or at any membership meeting of the Section to become effective upon subsequent approval of the Board of Governors. Notice of intent to amend bylaws and the text of proposed amendments shall be distributed to all Section members at least fourteen (14) business days prior to the meeting or mail or electronic balloting.

## Article XII Sunsetting the Section

**Section 1.** A Section Executive Committee may recommend that the Board of Governors sunset the section if it has accomplished its goals or is otherwise deemed no longer necessary. A sunset recommendation submitted to the Board of Governors must include a proposal for distribution of any section assets.

**Section ~~2~~1.** The Section has a duty to its members, and at a minimum each year, must:

- A. Hold regular Executive Committee meetings.
- B. Appoint a Nominating Committee.
- C. Hold a Section Annual Business Meeting.
- D. Elect officers and executive committee members at large by November 15 of each year.
- E. Submit an annual budget.
- ~~F. File an annual Section CLE Participation Report.~~
- ~~FG.~~ File ~~its an~~ annual report.

If the Section fails to meet the above minimum requirements, it is subject to restructuring or sunsetting by the Board of Governors.

## Article XIII Rules of Order

**Section 1.** Except as otherwise provided herein, meetings of this Section shall be conducted in accordance with the most recent edition of Robert's Rules of Order.

Section 2. All references in these Bylaws to "mail" or "mailing" or "mail ballot" shall also include electronic email to a member or addressee who has an email address on file with the Oregon State Bar ~~and who has agreed to be contacted by electronic mail.~~

# OREGON STATE BAR

## Board of Governors Agenda

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**Meeting Date:** August 24, 2012  
**From:** Ann Fisher, Chair, Policy & Governance Committee  
**Re:** HOD Structure Review

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### Action Recommended

Approve the committee's recommendation that HOD delegates be surveyed at the November 2012 meeting for their view on the continuing relevance of the HOD and any structural changes that will make it more fairly representative and relevant.

### Proposal

In January 2012, the Policy & Governance Committee discussed an OSB member's suggestion that governance issues be put to an electronic vote of the membership now that we have that ability, rather than be delegated to a small number of HOD members. Recognizing that the suggestion was in essence to abolish the HOD, the discussion turned to looking at the whether the HOD continues to be an effective governance model for the OSB.<sup>1</sup> In February, the BOG agreed that the issue should be studied further.

In discussion over the ensuing months, the P&G Committee identified several concerns and issues:

1. The HOD is "metro area-centric" because  $\frac{3}{4}$  of the section chairs (ex officio delegates) are from the metro area of the Willamette Valley; the metro slant is further exacerbated by the fact that many local bar leaders are unaware that they are also ex officio delegates.
2. Several delegates frequently question the value or significance of their roles; others have complained about wasting time with delegate resolutions that have no obvious connection to OSB governance.
3. Delegates have struggled to identify and bring forth issues appropriate for the HOD.
4. The availability of electronic voting makes it again possible for governance issues to be presented to the membership as a whole, rather than to a relatively small group of delegates.

The P&G Committee also identified several potential solutions:

1. Eliminate the HOD and devolve all HOD authority to the BOG and/or the Supreme Court.
2. Eliminate the HOD and revert to an online "town hall" system of member governance.

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<sup>1</sup> See the brief history of the HOD, *infra*.

3. Eliminate section chairs as ex officio delegates.
4. Enhance outreach and information to local bar leaders so they understand their ex officio delegate role.
5. Establish an all-regions “caucus” several months in advance of the HOD during which delegates can brainstorm and develop resolutions for HOD consideration.

After examining the various possibilities, the P&G Committee concluded that the best approach was to get input from the HOD delegates before proposing any actions. Accordingly, it recommends that some time be scheduled during the HOD meeting to get the delegates’ reactions to the above possibilities and any others that the delegates may have.

### **Background**

#### *History of the House of Delegates*

The first HOD meeting was 1996, but the idea of a House of Delegates was an ongoing discussion at various times beginning in 1938. One thought permeated all of those discussions: there should be a more representative system of governance than placing the decisions in the hands of those who had the time, money and inclination to attend the Annual Meeting. Early efforts to establish a delegate governance model were unsuccessful. Committees were established to study the issue in 1938, 1944, 1956 and 1963. In 1972 the issue was referred to the Committee on Function and Organization of the Bar<sup>2</sup> which studied it for five years before drafting a legislative proposal that was presented at the Annual Meeting in 1977; it was rejected in favor of a study on how to improve the existing “town hall” system. No changes resulted from that study.

Surveys in 1979 and 1983 indicated that the majority of responding members favored the town hall system coupled with mail referenda on some questions. By the latter part of the 1980’s, Oregon was one of only a handful of states that retained a town hall membership governance structure. In 1989, the Function and Organization Committee proposed a vote-by-mail procedure by which any proposal (other than one from the BOG) would be submitted to a non-binding vote at the Annual Meeting and then to the entire membership for a binding vote. Nothing came of that proposal, but in 1990 the BOG asked the Committee to develop a model for a House of Delegates.

The proposal developed by the BOG was submitted to a membership vote in August 1992. Of the 9,346 active members, 36% returned ballots; the proposal was favored by a 2/3 majority. The proposal was submitted to the 1993 Legislature as SB 256. It provided for one elected delegate for every 100 bar members with a minimum of five delegates per region. It also provided that section and committee chairs and BOG members would be ex officio delegates.

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<sup>2</sup> A predecessor of the Policy and Governance Committee.

The bill passed the Senate with some amendments, but ran into strong opposition in the House from Rep. Del Parks, who was not persuaded that the HOD makeup would fairly reflect the interests of lawyers throughout the state. He proposed reducing the number of elected delegates (from 1:100 lawyers in the region to 1:200) and having 2 representatives from each local bar, which would have given much greater power to the rural counties. The bill died in the House.

A revised bill was introduced in 1995, the most fundamental difference in which was the addition of local bar presidents as ex officio members. The bill did not meet the same resistance as its predecessor and it became effective January 1, 1996. The first delegate elections were held in April 1996. For the next few months, delegates met with BOG representatives and OSB staff to draft rules of procedure and discuss other potential structural and procedural issues (such as seating in “regional delegations,” having an executive committee, and the like). The first meeting of the HOD was held in Medford on September 28, 1996.

### *Attendance and Participation*

HOD attendance has been adequate over the years, with only one year that there was no quorum. Between 1996 and 2011, the attendance of various components of the HOD was as follows:<sup>3</sup>

<i>Category</i>	<i>High</i>	<i>Low</i>
Elected delegates	90%	63%
Public members	83%	17%
Local bar presidents	57%	11%
Committee chairs <sup>4</sup>	90%	30%
Section chairs	79%	13%
BOG	100%	45%

During that same period, overall attendance ranged from a high of 80% (1996) to a low of 52% (2004).<sup>5</sup> HOD members were surveyed in 1998, after the second HOD meeting. The reasons given for not attending included “didn’t realize I was a member,” “on vacation or out of town,” “scheduling conflict,” “other commitments,” and “too expensive.” It is unknown whether different responses would be given now that the HOD is a more mature governance structure.

Anecdotal information suggests that some delegates don’t find the agenda compelling. Similarly, there have been some concerns raised in the last couple of years that too much of the HOD meeting is taken up with delegate resolutions on matters not relevant to bar governance.

Various ideas have surfaced from time to time to “enhance” the HOD including having an executive committee, appointing “chief delegates” from each region, and improving

<sup>3</sup> See attached spreadsheet for details.

<sup>4</sup> Eliminated after 2001.

<sup>5</sup> Attendance was 50% in September 2008, insufficient for a quorum, as discussed above.

member understanding of the HOD's role. The most significant change occurred about five years ago when a second round of pre-HOD regional meetings was instituted. The first regional meetings usually takes place in July, well in advance of the resolution filing deadline, and provides an opportunity for delegates to discuss ideas for resolutions and get information about how to submit them. The second round of meeting takes place approximately a month before the HOD meeting, after the preliminary agenda approved by the BOG has been published.

### *Over- and Under-Representation*

Over the years there has been concern that the HOD was heavily weighted in favor of the metro area or the Willamette Valley because a majority of ex officio delegates (section chairs, local bar presidents and BOG members) reside in the Portland metropolitan area<sup>6</sup> or in the Willamette Valley.<sup>7</sup> Having local bar presidents as ex officio delegates was intended to ameliorate that situation. The HOD will always have the majority of its members in the metro area and Willamette Valley because that is where the majority of lawyers practice. Currently, 82% of section chairs are from those areas. By contrast, only 40% of local bar presidents are from the metro area or the valley:

Total delegates	227 (6 are currently vacant)
Section Chairs	41 (31 from the metro area, 3 from the valley)
Local Bar Presidents	20 (3 from the metro area and 5 from the valley)

### *Other Bar Governance Models*

As noted above, one of the arguments in favor of creating the HOD in the early 1990's was that that Oregon was one of only a few bars that retained a "town hall" style of membership governance. No mention was made about what other bar were doing in lieu of a town hall, but it appears there was an unspoken understanding that they were being replaced by houses of delegates (representative assemblies). Whether that was true in the early 1990's or not, it is certainly not the case now. A 2009 ABA survey showed that only 5 of the 35 unified bars has a representative assembly (HOD), and none of them are in the western states.

Rather, the predominant model of bar governance is a board of governors. Among the western states,<sup>8</sup> board size ranges from 5 (Idaho) to 23 (California). About half have public members on the board and several have designated seats for minority lawyers, young lawyers, and law school representatives. Most meet 6-10 times per year. All but three have an executive committee that handles interim operational matters. Most jurisdictions also have some kind of initiative process by which a specified percentage of members can petition for a bar-wide vote on an issue.

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<sup>6</sup> Multnomah, Washington and Clackamas Counties.

<sup>7</sup> Marion, Polk, Benton, Linn and Lane Counties.

<sup>8</sup> Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah and Washington.

# OREGON STATE BAR

## Board of Governors Agenda

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**Meeting Date:** August 24, 2012  
**From:** Ann Fisher, Chair, Policy and Governance Committee  
**Re:** Judicial Selection, Evaluation and Education

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### Action Recommended

Consider the recommendations of the Policy and Governance Committee that the BOG:

- (1) change the way it makes recommendations to the governor on appellate appointments;
- (2) develop a process for evaluation of municipal, state and federal judges; and
- (3) mandate continuing legal education on judicial ethics and demeanor for sitting judges.

### Background

Over the last several months, the Policy and Governance Committee has discussed several issues involving the judiciary. They fall into two categories: (1) the BOG's contribution to appellate judicial appointments and (2) evaluation and education of sitting judges.

#### *Appellate Selection*

On the issue of appellate judicial appointments, the committee believes that the Bar's contribution was more valuable when it included a public ranking of the candidates. Currently, OSB Bylaw 2.703 provides generally that "Upon completion of the due diligence review, the Board's Committee on the Judiciary<sup>1</sup> will recommend a list of candidates suitable for consideration by the Governor to the Board,...."

For many years, the bylaws provided that the BOG would recommend those candidates it believed were "highly qualified" and, on request of the Governor, would also provide names of "qualified" candidates.<sup>2</sup> That type of recommendation was dropped sometime in 2005 in favor of merely indicating which candidates are "suitable to consideration." The change was made to accommodate the then-Governor, who didn't want any ranking in the recommendations. As a practical matter, since the change all candidates have been recommended to the Governors as suitable for consideration. At the same time, the BOG's preferences are shared with the governor's counsel or the governor orally so there is no public record of what could be considered a ranking of the candidates.

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<sup>1</sup> Since renamed to the Appellate Selection Committee.

<sup>2</sup> The BOG policies in effect at the time also included the following statement: "A 'highly qualified' or 'qualified' recommendation is intended to be objective. Failure to recommend a candidate in any particular selection process is not a finding that the person is unqualified."

Several BOG members who have served on the Appellate Selection Committee have expressed chagrin that they devote a considerable amount of time to interview and evaluate the candidates (often on a short time schedule), yet are prohibited from giving the governor a frank assessment of the candidate's qualifications.

#### *Judicial Evaluations*

On the issue of judicial evaluations, the committee members expressed concern at what appears to be an increasing lack of professionalism among judges, manifesting in rude treatment of lawyers and litigants. The committee believes the BOG should develop a system for evaluating sitting judges in municipal, state and federal courts.<sup>3</sup> Judicial evaluations can improve judicial performance in addition to helping citizen be more informed voters in judicial elections.

Evaluations of Multnomah County judges were done for several years during the 1970s and 1980s and the results were published in *The Oregonian*. The idea of judicial evaluations for state court judges was recommended some years ago by the BOG's *former* Committee on the Judiciary, but in the face of strong opposition from the then-Chief Justice, no action was taken. The P&G Committee believes it is time to revisit the idea.<sup>4</sup>

#### *Judicial Education*

The committee's concerns about judicial behavior suggest the need for better training and education. To that end, the P&G Committee recommends amending the MCLE rules to require that judges obtain 6 hours in each reporting period on the subjects of "judicial ethics and demeanor." This would be in addition to the 6 hour requirement for all members in "ethics and professional responsibility" (which includes one hour of child abuse reporting).

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<sup>3</sup> Information, guidance and templates are available from a variety of sources including the National Center for State Courts.

<sup>4</sup> Unbeknownst to the P&G Committee at the time of its discussions, the Appellate Judicial Selection Work Group of the Oregon Law Commission is considering the merits of judicial evaluations, among other issues. BOG Member Mike Haglund serves on the work group.

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# OREGON STATE BAR

## Board of Governors Agenda

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**Meeting Date:** August 24, 2012  
**From:** Steve Larson, Public Affairs Committee Chair  
**Re:** Law Improvement Proposals

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Update to the Board of Governors on the status of 2013 OSB package of Law Improvement Proposals.

### **Background**

Attached is a status update on the OSB Law Improvement package.

Most bar groups create legislative subcommittees to address issues or concerns in their substantive area of practice, and to develop a set of recommendations for executive committees to consider. Before any proposal is forward to the board of governors for consideration, it must be approved by a majority of the executive committee (we encourage executive committees to be representative of the diverse views on the section). Bar groups are encouraged to be mindful of differing viewpoints in the practice area. Law Improvement legislation is typically legislation that clarifies statutory ambiguities, removes unnecessary procedural requirements, modifies unforeseen glitches in previous legislation, or otherwise improves the practice of law. Policy changes can also be included in the bar package of legislation when deemed appropriate.

Members of the Public Affairs Committee review legislation to ensure that

- it meets the OSB guidelines with respect to legislation, OSB Bylaw 12, (Keller)
- respects divergent opinions of subgroups within the legal profession and
- avoids committing bar resources to issues that are divisive or create factions within the profession

Generally, the PAC has encouraged section and committee participation in the law improvement program by giving deference to the expertise and the work of the groups that have made proposals.

# **Current Status of all bills previously proposed for inclusion in OSB 2013 Law Improvement Package**

## **Board of Governors**

**Unlawful Practice of Law** – Amends the Unlawful Trade Practices Act to explicitly make the unlawful practice of law an unlawful trade practice. Amends ORS 646.608.

*Status update: Awaiting an initial draft from Legislative Counsel.*

**Custodianship of Law Practice** – This bill would permit an individual who is appointed as a custodian of a nonperforming law practice to receive first priority in payment for reasonable compensation and expenses in a case where assets are insufficient to meet all obligations.

*Status update: Awaiting an initial draft from Legislative Counsel.*

**Interest from Escrow Accounts** – Requires that escrow trust accounts held by title companies be set up according to a system similar to lawyer's IOLTA accounts, with interest going partially to funding legal services.

*Status update: Proposal withdrawn by Oregon Law Foundation.*

**Centralized Legal Notice System** – Requires that the Oregon state Bar create and maintain a centralized online system that lawyers, government entities, and other persons may use to post statutorily required legal notices. Posting to this system eliminate the need for the person to run a notice in a newspaper. Any net revenue from this system would go to fund legal services.

*Status update: Oregon State Bar sponsorship rejected.*

## **Lawyers for Veterans**

**Notice of SCRA in Administrative Hearings** – Amend ORS 183.413 to require notice of administrative hearings to include a statement that the Servicemembers Civil Relief Act applies to such proceedings and affords active duty servicemembers the right to defer such hearings.

*Status update: A meeting was held with Judiciary Committee Counsel and administrative agency staff to work out potential problems and develop alternative language.*

**Increase Judicial Discretion in Sentencing Certain Veterans** – Allow judges increased discretion to sentence certain veterans to probation and treatment rather than to incarceration. To be eligible for such sentencing, the veteran must suffer from Post Traumatic Stress Disorder or from Traumatic Brain Injury.

*Status update: A work group formed by Judiciary Committee Counsel and composed of veterans' advocates, defense attorneys, district attorney, and crime victim advocates have been meeting to work out an acceptable proposal. Work on this proposal is ongoing.*

## **Uniform Criminal Jury Instructions Committee**

**Technical Correction to Uniform Criminal Jury Instructions** – Corrects a longstanding conflict between the current Uniform Criminal Jury Instructions and the Oregon Supreme Court's decision in *Ireland v. Mitchell*, 226 Or 286, 290, 359 P2d 894 (1961). The statute requires that a judge inform jurors that they must distrust a witness that is false in one part of their testimony, whereas the court has ruled that jurors may distrust such a witness, but are not obligated to do so. Common practice is to abide by the Supreme Court's ruling. Amends ORS 10.095.

*Status update: LC draft received from Legislative Counsel. Draft is correct and does not need amendment.*

## **OSB Sections:**

### **Administrative Law**

**Fastcase pilot project** – Requires state agencies to maintain final orders (as defined in ORS Chapter 183) in a digital format. This requirement is being proposed in order to facilitate the inclusion of agency final orders in online electronic databases such as Fastcase.

*Status update: The section executive committee is working to define what agency orders would be subject to the bill's requirements.*

### **Animal Law**

**Warrantless entry for animal welfare** – Amends existing law to clarify that peace officers may enter a premises, search and seize an animal without a warrant if they reasonably believe that it is necessary prevent serious harm or to render aid to the animal. Peace officers are currently permitted to do this to safeguard “property”, which includes animals. However some jurisdictions are reluctant to exercise this authority without clearer statutory guidance. Amends ORS 133.033.

*Status update: Contacted the Criminal Law Section to inquire if they had any concerns about the bill, including possible 4<sup>th</sup> Amendment implications. Feedback received indicates that there are some concerns about whether this legislation would provide a pretext for what would otherwise be illegal searches of property. (e.g. Police respond to a dog barking, and enter premises to confirm if the dog is in distress, and in the process find illegal activity.) Staff is currently working to determine if it is possible to redraft the bill to address these concerns.*

*Additionally, staff has spoken with the Office of Legislative Counsel about alternate language that would achieve the proponents' intent of providing welfare check for animals, without creating unintended consequences. Awaiting initial draft from Legislative Counsel to determine if satisfactory language can be crafted.*

### **Business Law**

**Remote-only shareholder meetings** – Clarify existing law to make clear that it is permissible to hold shareholder meetings over a webcast or other electronic communications medium without the need for the meeting to be based in a central physical location. Current law clearly allows shareholders to participate at a meeting via this type of technology, but references in statute to the “place” of the meeting make it unclear if a meeting can be conducted exclusively through such remote communication systems. Amends ORS Chapter 60.

*Status update: Contacted representatives of plaintiff business and securities bar to request feedback on the legislation. Suggestions from practitioners were incorporated into the draft request that was sent to Legislative Counsel.*

**Equity awards to employees** – This bill provides express authority for boards of directors to delegate to corporate officers the authority to grant equity awards to corporate employees. Current law is clear that boards may do this directly, but is unclear as to whether they may delegate the authority to officers. Amends ORS 60.157.

*Status update: Contacted representatives of plaintiff business and securities bar to request feedback on the legislation. Suggestions from practitioners were incorporated into the draft request that was sent to Legislative Counsel.*

## **Consumer Law**

**Disclosure of termination fees** – This bill amends the Unlawful Trade Practices Act and would require that at the time a contract is executed the contracting entity must conspicuously disclose the early cancellation fee and the total amount of the payments required to fulfill the entire contract. Amends ORS Chapter 646.

*Status update: The section understands that the BOG has declined to sponsor the bill. The bill concept has been sent to the Oregon Trial Lawyers Association Consumer Law Section, OSPIRG and Economic Fairness Oregon for possible sponsorship. OSPIRG has politely declined to sponsor the bill. The bar has no control over the timelines of these groups.*

## **Debtor-Creditor**

The PAC was concerned about both these bills because they deal with foreclosure law, which has been a controversial topic in recent years. No one has raised substantive objections to the trustee qualifications bill, and the section is attempting to reduce concerns about the amended notice of sale bill.

**Amended notices of sale** – This bill would clearly define the duties of a trustee in a trust deed foreclosure when an initial sale has been lawfully stayed and the stay is then lifted. Amends ORS 86.755.

*Status update: The section has been working with consumer advocates to reduce concerns about this proposal. Negotiations are on-going; the Consumer Law Section will be taking up proposed compromise language at its meeting on August 15.*

**Qualifications to serve as trustee** – This bill would allow another attorney in the trustee attorney's firm to act on behalf of the trustee when the trustee is unavailable to act as trustee. Under current law, matters that must be undertaken by the trustee must wait until the trustee is again available, or a new trustee is appointed. Amends ORS 86.790.

*Status update: The section has sought feedback from consumer advocates. Thus far, concerns have not surfaced. Awaiting an initial draft from Legislative Counsel.*

## **Elder Law**

**Protective Proceedings** – Makes clarifications to the rules regarding attorneys' fees and costs in protective proceedings cases. Amends ORS 125.095

*Status update: We have received the initial LC draft from Legislative Counsel, and have requested that some additional changes be made to reflect the intent of the proponents. Specifically, Legislative Counsel had initially eliminated one section from the bill that the drafter thought was unnecessary. This had to do with the necessity under current law that requests for attorneys' fees be made in an initial pleading, which the section did not want to be a requirement in the cases addressed by the bill. We have explained to LC why that section is important, and have requested that it be restored.*

## **Estate Planning and Administration**

**Uniform Trust Code revisions** – Makes numerous technical changes to the Oregon Uniform Trust Code. Amends ORS Chapter 130.

*Status update: The section withdrew this proposal from consideration for OSB sponsorship, and it has been referred to the Oregon Law Commission.*

**Digital Assets** – Establishes definitions and rules for the administration, maintenance and disposition of digital assets upon a decedents’ death. Amends ORS Chapters 114, 125 and 130.

*Status update: We have received the initial LC draft from Legislative Counsel, and have requested that changes be made to help address concerns raised by custodians of digital assets. The primary concern raised to date has to do with requiring internet companies to provide more information or materials either unnecessarily, or faster than is practical. (Many internet based companies have relatively small staffs, and may have difficulty responding to requests from attorneys quickly.) Changes made to the legislation should help address these concerns.*

## **Family Law**

**Housekeeping (ORS Ch 107 and 109)** – This bill makes several changes to ORS Chapters 107 and 109 in order to clarify several ambiguities and errors. The issues covered include taxability of spousal support, applicability of statutory restraining orders, the proper location to file filiation proceedings, and the elimination of the term “suit” in certain contexts.

*Status update: LC draft received from Legislative Counsel. Draft is correct and does not need amendment.*

**Life Insurance** – This bill provides for the award of attorneys fees in certain cases involving court ordered life insurance policies.

*Status update: LC draft received from Legislative Counsel. Draft is correct and does not need amendment.*

**Survivor Benefits** – This bill provides for protections of survivor benefits for former spouses of members in a public retirement plan in cases where the spouses divorce prior to the death of the insured party.

*Status update: Withdrawn from consideration. BOG declined to sponsor this legislation. The section has reached out to unions and other organizations to see if they might be interested.*

## **Juvenile Law**

**Correction to erroneous statutory reference** - ORS 419B.100(1) (Jurisdiction in juvenile dependency proceedings) refers to “subsection 6” in the body of the text. However, this subsection was eliminated by a bill in 2011. In 2011, the legislature removed the former subsection 3, dealing with parental treatment by prayer, leaving only 5 subsections. This bill would correct this erroneous reference.

*Status update: This issue will be resolved through inclusion in to the “Scrivener’s Bill”.*

## **Other Proposals**

**Commencement of Actions** – This bill would amend ORS 12.020 to alter the timing with which an action is deemed to be filed for statute of limitations purposes. The bill would eliminate the current requirement that service must be completed within 60 days, in order for the action to count as filed on the day it was filed with the court.

*Status update: OSB rejected sponsorship because this was legislation proposed in 2009 which died for substantive reasons.*

**Driving While Suspended** – This bill would amend ORS 811.175 to specify that an out of state commercial driver is only deemed to be driving while suspended, if their driving privileges have been revoked by either Oregon or by the state that issued the commercial license.

*Status update: Declined to sponsor this legislation due to jurisdictional reasons.*

# OREGON STATE BAR

## Board of Governors Agenda

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**Meeting Date:** August 24, 2012  
**From:** Sylvia E. Stevens, Executive Director  
**Re:** CSF Claims Recommended for Payment

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### Action Recommended

Consider the recommendation of the Client Security Fund that the following applications for reimbursement be granted:

No. 2011-18 DICKERSON (Morning Star)	\$50,000.00
No. 2011-22 SCHANNAUER (Olive)	\$800.00
No. 2011-29 GRUETTER (Foster)	\$50,000.00
No. 2012-03 GRUETTER (Key)	\$50,000.00
No. 2012-04 GRUETTER (Liebzeit)	\$50,000.00
No. 2012-07 GRUETTER (Runkel)	\$46,833.14
No. 2012-17 GRUETTER (Thornhill)	\$30,705.27
No. 2012-28 GRUETTER (Love)	\$2,206.44
No. 2012-34 GRUETTER (Carey)	\$3,345.00
No. 2012-38 GRUETTER (Shatka)	\$2,237.60
No. 2012-40 GRUETTER (Haron)	\$6,000.00

**TOTAL** **\$292,127.45<sup>1</sup>**

### Background

#### **No. 2011-22 SCHANNAUER (Olive) - \$800.00**

Wendy Olive hired Bend attorney Peter Schannauer in October 2009 to complete the adoption of her domestic partner's child. She deposited a flat fee of \$800 for Schannauer's services and \$200 for estimated filing fees. There was no written fee agreement and nothing to indicate that the fees were earned on receipt.

Olive heard almost nothing from Schannauer thereafter (except for one call in March 2010 instigated by Olive) and in October 2010 she demanded a refund of her \$800. In November, Schannauer responded that he had filed a petition on her behalf, but that it had been rejected and needed additional work. That was the last Olive heard from him. Olive then hired Eugene attorney Brewer to complete the adoption. Brewer learned from the court that

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<sup>1</sup> \$234,127.45 attributable to Bryan Gruetter.

nothing had been filed on Olive's behalf. Schannauer expressed remorse to Brewer about his representation of Olive and promised a refund of the advanced funds but he never delivered it.

The CSF Committee reviewed the claim in October 2011 and recommended an award of the entire \$800 that Olive had paid Schannauer. The BOG considered the claim at its November 2011 meeting, but a question was raised about whether there was sufficient evidence of dishonesty, particularly since no complaint had been made to Disciplinary Counsel's Office. Following that meeting, the CSF referred the matter to DCO.

Schannauer didn't respond to DCO's inquiries and the matter was referred to the Region 1 LPRC in January 2012. Schannauer initially told the LPRC investigator that he had filed Olive's petition; later amended his statement to say he had drafted the petition and submitted it for review to an adoption specialist at DHS. He was advised to gather additional information and amend the petition. Schannauer believed he reported this development to Olive (which she denies) and also thought he had drafted an amended petition but had not filed it because he felt insecure about filing it. He was unable to produce an amended petition for the LPRC investigator.

Schannauer acknowledged that he failed to issue a refund to Olive, saying he was "too busy." The money tendered for fees and costs was all deposited into Schannauer's business account. He told the LPRC investigator he was unaware of special language necessary to make his \$600 fee "earned on receipt." He first said he had deposited the \$200 cost advance into trust, but later acknowledged that it too had been deposited into his business account. Schannauer admitted using all of the funds paid by Olive for his own use and that he was will to make "any necessary financial reimbursement" but "only over time."

The Committee concluded that any work Schannauer did was of no value and that all of the money deposited by Olive was misappropriated to Schannauer's own use. Schannauer continues to practice in Bend. The SPRB has authorized prosecution on this and two other complaints against Schannauer. The CSF Committee is confident Schannauer will be disciplined in connection with his representation of Olive and recommends that she be reimbursed all of the money deposited with Schannauer. Because the loss is for less than \$5000 and Schannauer will be disciplined in connection with it, no judgment is required.

#### **No. 2011-18 DICKERSON (Morning Star) - \$50,000**

In February 2007, the Morning Star Missionary Baptist Church building was destroyed by fire. After collecting nearly \$1 million in insurance proceeds, the church pastor reached out to one of its congregants, Ernie Bighaus, for guidance about rebuilding the church. Bighaus recommended that the Church also hire attorney Daniel Dickerson to advise on contracts relating to the rebuilding. Bighaus represented Dickerson as "well-known" in the field of construction law, when in fact, Mr. Dickerson had no such expertise. However, Dickerson had previously represented Bighaus on several matters.

On June 24, 2008, Bighaus introduced Dickerson to the pastor. Dickerson presented a flat fee agreement under which the church would pay \$20,000 for his services. At the same time, Bighaus presented the pastor with a contract whereby the church would engage 2RE General Contractors, Inc., a Texas company owned by Bighaus, to manage the construction project (“the contract”). The contract called for an up-front payment of \$438,000, discounted to \$330,000 if paid immediately. Dickerson told the church officials that he had read the contract, that it would protect the church and was in its best interest, and urged them to sign in order to receive the discount.<sup>2</sup>

Between June 26 and July 24, Dickerson received his \$20,000 attorney fees as well as \$320,000 toward the construction management contract. (The final \$10,000 was due on completion.) Eight months went by with no meaningful progress on the church rebuilding and little contact from Bighaus. In April 2009, after a local contractor offered to donate construction management services to the congregation, church officials requested that Bighaus refund \$300,000 of the monies paid. He declined.

In October 2009, Bighaus demanded payment of the “hold back” that was due on completion of the project. Church officials contacted Dickerson for advice and help, but he urged them to pay Bighaus and they did.

In December 2009, recognizing that his loyalties were with Bighaus,<sup>3</sup> the church fired Dickerson and hired Miller Nash to represent it. In response to Miller Nash’s request for the file, an accounting and a refund of any unearned portion of the \$20,000 fee, Dickerson stated he would be out of the country beginning in February 2010. The church later learned that Dickerson and Bighaus moved to Kenya where they are involved in building a charitable children’s home called “Naomi’s Village.” The projected building cost, according to the Naomi’s Village website, is \$300,000. Bighaus is listed as the “lead builder” and Dickerson as the “ass’t. builder, botanist.”)

The church sued Dickerson in June 2010 alleging negligence, breach of fiduciary duty, and breach of contract and seeking to recover all of the money delivered to Dickerson for his own or 2RE’s benefit. (The church did not allege theft or other intentional conduct because it would negate PLF coverage.) The PLF appointed counsel to represent Dickerson; the case was complicated by Dickerson’s absence from the jurisdiction and by his filing bankruptcy in early 2011. The church eventually settled with the church for \$100,000; because of the “wasting” provisions of the PLF policy, the church feared it could end up with nothing even if it prevailed at trial.

The CSF Committee concluded that this claim is eligible for reimbursement. The church was Dickerson’s client and Dickerson’s dishonesty (in collusion with Bighaus) led to the church’s loss of more than \$350,000. The Committee recommends an award of \$50,000. The church has

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<sup>2</sup> In fact, the contract, an AIA form, was not completed fully and contained ambiguous and contradictory terms.

<sup>3</sup> Unbeknownst to the church, 2RE was not a licensed contractor in Oregon and was not a valid business until early 2010 when Dickerson incorporated it and served as its registered agent.

no further recourse against Dickerson. He was disbarred in August 2010 for, among other things, failing to account for flat fees and perform agreed work in matter unrelated to his representation of the church. The church's civil claim was reduced to a judgment that was fully satisfied by the PLF payment.

### **Bryan Gruetter Claims**

#### *Common Facts*

Bryan Gruetter was admitted to practice in 1986; after working for two Bend law firms, he had his own successful plaintiff's personal injury practice for more than 8 years. He was well known and widely respected in the Bend legal community. Gruetter had an unblemished disciplinary history until he was admonished in August 2011 for failing to promptly disburse payment to a third party lienholder. He excused his delay as the result of failing to enter the payment date in his "tickle system," being caught up in a complex trial, and health issues that took him away from the office. He assured DCO that he was hiring a new assistant to help bring order to his practice.

Unbeknownst to Disciplinary Counsel's Office, colleagues in Bend had noticed for several months that Gruetter was behaving strangely. He was often seen playing video poker in bars, he missed appointments and increasingly failed to show for court hearings or sought last-minute continuances alleging on health problems or calendar conflicts.

In late November 2011, a complaint was filed alleging that Gruetter had failed over the course of a year to pay a client's hospital lien. Within a few days, additional complaints began to come in, all alleging inability to communicate with Gruetter or to receive payments from his office. By January 20, 2012, the bar had received 16 complaints. Several days later, first by court order then by stipulation with Gruetter, the bar became the custodian of Gruetter's practice. At the time, there was slightly more than \$2500 in Gruetter's trust account. (The custodianship is closed and the balance of Gruetter's trust account was disbursed to the CSF by court order.)

Within days of the first disciplinary complaint, Gruetter's clients began to present applications for reimbursement from the Client Security Fund. As of July 17, 2012, the Fund had received 33 claims alleging losses ranging from \$500 to \$142,000. Reduced to claim limits, awards to all of the claimants will exceed \$750,000.

In late February, Gruetter submitted a Form B resignation (citing 25 pending matters) which was accepted by the Supreme Court and became effective April 19, 2012. Gruetter and his wife are currently under investigation by the US Attorney's office, which plans to prosecute them for wire fraud.

At its June 2012 meeting, the BOG approved awards totaling \$173,815.39 to seven of Gruetter's clients. The CSF Committee recommends that the requirement for judgments be waived in all cases. In some of the smaller cases that were part of his Form B resignation, no judgment is required in any event. For the others, the Committee believes that pursuing a judgment against Gruetter is pointless. He has no assets of which anyone is aware, and he is

likely to be convicted and imprisoned before too long. Additionally, it would be an undue burden on his clients to have incur the additional expense of legal proceedings.

**No. 2011-29 GRUETTER (Foster) - \$50,000**

Elisha Foster retained Gruetter to bring a claim for injuries suffered in a December 2008 auto accident. Her claim was settled in May 2010 for \$452,000. Gruetter deposited the settlement proceeds into his trust account. Gruetter deducted his fees (\$150,000) and costs (\$1962), paid medical expenses of \$37,617.98 and distributed \$202,000 to the client. He promised to pay remaining outstanding medical bills from the balance of \$60,420.02 and, if he could arrange additional reductions, to return any remainder to the client.

Despite his assurances to Foster, Gruetter did not pay the remaining medical claims and she learned of this only when the creditors began to look to her for payment. In one case, the creditor obtained a judgment and began foreclosure and sale of Foster's home to satisfy the obligation. The sale has been deferred pending the outcome of Foster's CSF claim.

The Committee recommends that Foster be awarded \$50,000 of her loss.

**No. 2012-03 GRUETTER (Key) - \$50,000**

Veryl Key hired Gruetter to pursue her injury claim resulting from a 2005 fall. The case settled in December 2010 for \$100,000. After deducting his attorney fees and costs, \$66,434.41 remained for the client. Gruetter disbursed \$10,000 to her in January 2011 and promised the balance after he resolved her medical liens.

Over the next year Gruetter failed to pay or compromise the outstanding medical claims, failed to provide Key with an accounting and failed to disburse any additional funds to Key.

The Committee recommends that Key be awarded \$50,000 of her loss.

**No. 2012-04 GRUETTER (Liebzeit) - \$50,000**

LeAnn Liebzeit hired Gruetter on July 2, 2010 to pursue a claim for injuries sustained in an auto accident. The claim was settled in October 2011 for \$150,000. After deduction of Gruetter's fee and costs (totaling \$50632.95) there remained \$99,367.05. Gruetter made partial disbursement of \$40,000 to Liebzeit but retained the balance (\$59,367.05) to apply to outstanding liens and expenses.

Among Liebzeit's outstanding obligations was a PIP "lien" for \$37,850. Liebzeit's new attorney confirms that Gruetter never sought or obtained a waiver of the lien, or a waiver or reduction of any of her other medical expenses. The PIP carried indicates it might reduce its claim if Liebzeit is still treating and can provide proof of additional expense. She is unable to do

that, however, because her doctors won't provide additional service until her outstanding balances are resolved.

The Committee recommends that Liebrecht be awarded \$50,000 of her loss. There was considerable discussion of whether the award should be reduced by the amount of the PIP lien since that is money she wouldn't have received if Gruetter had paid it. The Committee ultimately concluded, however, that it is not a "windfall" to the client because if the PIP carrier had waived or reduced the lien Liebrecht would have received some or all of it. Also, she will likely now have to use it to settle the lien.

**No. 2012-07 GRUETTER (Runkel) - \$46,833.14**

Gruetter settled Lana Runkel's personal injury claim in August 2011 for \$145,000. He deducted his fees and costs, paid medical expenses and made a partial distribution to the client:

Settlement proceeds	145,000.00
Gruetter's 1/3 fee	(48,333.33)
Costs Advanced by Gruetter	(1,127.16)
Medical Expenses Paid	(46,706.37)
Received by Client	<u>(2,000.00)</u>
Balance due Client	\$46,833.14

Despite many requests by Runkel between September 2011 and January 2012, Gruetter failed to account for or deliver the balance of her funds. Runkel's new attorney, Ed Merrill, has filed suit against Gruetter for \$46,833.14. He anticipates a default judgment will be entered but will be uncollectible.

The Committee recommends that Runkel be awarded \$46,833.14 in exchange for an assignment of any judgment she obtains against Gruetter.

**No. 2012-17 GRUETTER (Thornhill) - \$30,705.27**

Cheryl Thornhill was represented by Joe Walsh of Gruetter's office in connection with a claim for injuries suffered in an auto accident in early 2009. Thornhill settled with the at-fault driver for \$25,000 in December 2009. In February 2011, she settled with her own insurer and received \$22,328.56 in UIM benefits (for a total recovery of \$47,328.56).

Walsh provided a "final accounting" in December 2011 indicating that after deduction of the firm's fees and costs and \$1,770.44 owed to Aetna, there would be \$28,934.83 for Thornhill. Walsh instructed Thornhill to deal directly with Gruetter or his wife to get a check for that amount.<sup>4</sup> Thornhill's calls to Gruetter's office went unanswered. She went to the office in early January 2012 and was told by Gruetter's wife that she (Thornhill) would have to deal with

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<sup>4</sup> Walsh was an independent contract and had no access to or information about Gruetter's trust account.

Walsh. Only upon contacting Walsh again did Thornhill learn that no checks were being issued from Gruetter's account.

There is no record that Gruetter's office ever paid the \$1,770.44 owed to Aetna, so the Committee recommends an award of \$30,705.27 (\$28,934.83 + \$1,770.44).

**No. 2012-28 GRUETTER (Love) - \$2,206.44**

Jenny Love is Gruetter's niece. She hired him to assist her with a personal injury claim. The case was settled in October 2010 for \$35,615.24. After deducting his costs, Gruetter distributed all the proceeds to Love except \$3345 that he was holding back to reimburse costs owed to Hurley Re<sup>5</sup> (estimated at \$500) and a Regence lien of \$2,843.82.

In December 2010, Gruetter reimbursed Hurley Re's costs of \$189.44. In September 2011, Regence agreed to reduce its lien to \$1,895.88 (a reduction of \$947.94). In October and November 2011, Love contacted Gruetter's office several times requesting confirmation that all of her obligations had been satisfied and that she would receive the remaining funds. In December 2011, Gruetter disbursed \$947.94 to Love.

Gruetter never paid the Regence lien of \$1,895.88, nor did he refund the \$310.56 difference between what was held back for Hurley Re and what was actually paid. The Committee recommends Love be awarded \$2,206.44 for her loss.

**No. 2012-34 GRUETTER (Carey) - \$3,345**

Gruetter was engaged in 2007 to handle a personal injury case for Carol Carey, which he eventually settled in 2009 for \$100,000. Over a period of months, Gruetter made partial disbursement to the client and paid her hospital bill, but never provided a full accounting. The CSF investigator was able to construct the following accounting:

Settlement proceeds	100,000.00
Gruetter's 1/3 fee	33,333.00
Advanced Costs	410.00
Disbursed to client	44,000.00
Legacy payment	18,912.00
Hold back for Compro	<u>1,613.00</u>
Balance due to client	1,732.00

Gruetter did not pay Compro and never disbursed the remaining \$1,732 to the client. The Committee recommends that Carey be awarded \$3,345 for her loss.

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<sup>5</sup> Gruetter was with the Hurley Re firm at the time he undertook Love's representation.

**No. 2012-38 GRUETTER (Shatka) - \$2,327.60**

Gruetter was retained to pursue Michael Shatka's claims for injuries arising from a 2006 auto accident. The case was eventually tried to a jury and resulted in a \$60,000 verdict in late 2010. Gruetter paid the clients medical bills and disbursed approximately \$22,000 to the client. In June 2011, the client learned that Gruetter had not paid the fees of the client's surgeon for his trial testimony.

The Committee recommends that Shatka be reimbursed \$2,327.60, the amount that should have been paid to the witness.

**No. 2012-40 GRUETTER (Haron) - \$6,000**

Gruetter was engaged to pursue claims for injuries sustained by Louis Haron during surgery at St. Vincent Hospital. The claim was settled for \$250,000 in 2010. Gruetter deducted his fees and costs, paid the client's medical bills, and disbursed the net proceeds to the client except for \$10,000 that was held back as "a precaution" against additional medical bills.

Louis Haron died in May 2011 of unrelated causes. Before his death he demanded that Gruetter release the remaining \$10,000, which resulted in a disbursement of \$4000 shortly before Louis' death. Mrs. Haron continued to make demand of Gruetter for the balance (the last one on January 4, 2012), but got no response.

The Committee recommends an award of \$6,000 to Alice Haron. There is no pending probate and Mrs. Haron was her husband's sole beneficiary.



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August 6, 2012

Via E-mail: [sstevens@osbar.org](mailto:sstevens@osbar.org)

Sylvia Stevens  
Executive Director  
c/o Board of Governors  
Oregon State Bar

**Re: Survey Proposal: Violence in the Oregon Legal Profession**

Dear Sylvia:

Thank you for speaking with me last week. As we discussed, my name is Stephen Kelson. I am an attorney at the law firm of Kipp and Christian, P.C., in Salt Lake City, Utah. As well a practicing attorney, I have an interest in the well-being of practitioners of law.

Legal commentators over the past twenty years represent that violence against the legal profession appears to be increasing. Although there is no national method for reporting attacks against the legal profession, limited statistical information shows that violence regularly occurs against legal practitioners.

I propose conducting an online survey of in-state members of the Oregon State Bar to examine perceptions of violence in the Oregon legal profession, the extent of experienced violence, and its effects on the practice of law. The proposed survey will be conducted through [www.surveymonkey.com](http://www.surveymonkey.com), an online survey site. A list of proposed survey questions are enclosed. All survey questions will be subject to review by the Oregon State Bar for form and approval. I will pay the minimal cost for the survey to be conducted.

I believe the topic of violence against the legal profession, and the proposed survey will be of interest to members of the Oregon Bar. I have had the opportunity to conduct similar surveys through the state bar associations for Utah, Idaho, Nevada and Wyoming. The results of these

Sylvia Stevens  
Oregon State Bar  
August 6, 2012  
Page 2

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surveys are reported in articles published in the Utah Bar Journal<sup>1</sup>, Idaho's Advocate Bar Journal<sup>2</sup>, and forthcoming articles in the Nevada Lawyer and Wyoming Lawyer magazines. A similar survey will be conducted by the State Bar of Arizona later this year.

The results of the survey will be submitted in an article to The Oregon State Bar Bulletin, analyzing the reported extent of violence experienced by members of the Oregon Bar, comparing the results with surveys performed in other states. This information will provide practical information for members of the Oregon State Bar, with the goal of examining the potential of violence in the legal profession, and to avoid becoming a victim of work-place violence.

Please feel free to contact me to discuss this proposal.

Very truly yours,



Stephen D. Kelson

Enclosure

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<sup>1</sup> "Violence Against the Utah Legal Profession - a Statewide Survey," 19 Utah Bar J. 8. July/Aug 2006, available at [http://webster.utahbar.org/barjournal/2006/08/violence\\_against\\_the\\_utah\\_lega.html](http://webster.utahbar.org/barjournal/2006/08/violence_against_the_utah_lega.html).

<sup>2</sup> "Violence Against the Idaho Legal Profession: Results of a 2008 Survey," 52 Advocate (Idaho) 28, January 2009, available at <http://isb.idaho.gov/pdf/advocate/issues/adv09jan.pdf>.

**Proposed Survey Questions:  
Violence and Threats Against the Oregon Legal Profession**

1. What is your gender?
  - a. Male
  - b. Female
  
2. Are you an In-State or Out-of-State member of the Oregon legal profession?
  - a. In-State
  - b. Out-of-State
  
3. What is your age?
  - a. 30 years or under
  - b. 31 to 40
  - c. 41 to 50
  - d. 51 or older
  
4. What is your area of law? What area of law comprises the majority of your legal practice (check one that is most applicable)
  - a. Criminal defense
  - b. State/Federal prosecution
  - c. Family/Divorce
  - d. Wills/Estates
  - e. Administrative
  - f. Corporate/Commercial/Real Estate
  - g. General Litigation
  - h. Labor/Employment/Civil Rights
  - i. Other (please specify):
  
5. Year(s) of Practice?
  - a. Less than 1 year
  - b. 1 – 5 years
  - c. 6 – 10 years
  - d. 11 – 15 years
  - e. 16 – 20 years
  - f. 21 – 30 years
  - g. 31 years or more

6. While serving as a member of the legal profession, have you ever been the recipient of a threat or been the victim of a violent act?

For purposes of this survey, a “threat” is defined as: A written or verbal intention to physically hurt or punish another, and/or a written or verbal indication of impending physical danger or harm.

- a. Yes
- b. No

**Those that respond “No” to Question No. 6 finish the survey at this point. Those who indicate “Yes” will continue with the following questions.**

7. Types of Threats and/or Violence (Please indicate below the type/s of threats and/or acts of violence received as it/they relate/s specifically to your responsibilities as a legal practitioner). **[multiple response]**
- a. Inappropriate/Threatening communications (e.g. verbal, letter, phone, fax)
  - b. Inappropriate approach (e.g. followed, face-to-face confrontation or attempts)
  - c. Physical assault
  - d. Two of more of the above – please specify
  - e. Other – please specify.
8. Number of threats received?
- a. None
  - b. One
  - c. Two
  - d. Three
  - e. Four
  - f. More than Four
9. Did the threat/s and/or violence occur while you were employed as a public or private attorney?
- a. Public (i.e. employment with state, county, city, etc.)
  - b. Private
  - c. Both
10. Location of Threats?
- a. Your business office
  - b. Residence
  - c. Courthouse
  - d. Elsewhere
  - e. Two or more of the above (please specify)

11. If you received a threat and were later assaulted, was the individual who threatened you the same person or connected to the person who assaulted you?
  - a. Yes
  - b. No
  - c. Do not know
  - d. Not applicable
  
12. What was the relationship with the individual who threatened/assaulted you?
  - a. Client
  - b. Relative/Associate of client
  - c. Opposing party
  - d. Relative/Associate of opposing party
  - e. Opposing counsel
  - f. Unknown
  - g. Other
  
13. If you have received a threat or been the victim of a physical assault, was it reported to the police?
  - a. Yes
  - b. No
  
14. If you have received a threat or been the victim of a physical assault, did the experience/s alter the way you conduct your legal practice.
  - a. Not at all
  - b. Somewhat
  - c. A great deal
  
15. When did you last receive a threat or become a victim of a physical assault related to your legal work?
  - a. Within past year
  - b. 1 – 5 years ago
  - c. 6 – 10 years ago
  - d. More than 10 years ago.
  
16. Please provide a brief description of any threats or violence you have experienced as a member of the Oregon legal profession.

**The survey will end after Question No. 16.**

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

June 22, 2012

**Open Session Minutes**

The meeting was called to order by President Mitzi Naucler at 1:09 p.m. on June 22, 2012. The meeting adjourned at 5:00 p.m. Members present from the Board of Governors were Jenifer Billman, Pat Ehlers, Hunter Emerick, Michelle Garcia, Mike Haglund, Theresa Kohlhoff, Tom Kranovich, Steve Larson, Audrey Matsumonji, Maureen O'Connor, Travis Prestwich, Richard Spier and David Wade. Staff present were Sylvia Stevens, Rod Wegener, Helen Hirschbiel, Jeff Sapiro, Kay Pulju, Susan Grabe, Mariann Hyland, Karen Lee, Judith Baker, Kateri Walsh, and Camille Greene. Others present were Tim Martinez, PLF Public Board Member, Bill Carter, PLF Board Chair, Norman Williams, OLF President, David Eder, ONLD Chair-elect, and Representatives from Oregon newspapers: Duane Bosworth, Davis Wright Tremaine representing Western Newspapers, Grady Singletary, *Medford Mail Tribune*, Heidi Hagemeyer, *Bend Bulletin*, Laurie Hieb, ONPA Executive Director, and Jeb Bladine, ONPA Board Member.

**1. Call to Order/Finalization of the Agenda**

**2. Department Presentations**

- A.** Ms. Hyland presented an overview of the Diversity and Inclusion (D&I) department and its new strategic direction and branding. She highlighted its key program, Opportunities for Law in Oregon (OLIO), and its goals for and support of Oregon law students. The D&I department is involved in multiple community events and has established a presence on key social media sites. Ms. Hyland encouraged board members to attend all or part of the August OLIO orientation program and to donate funds for the event.

**3. Reports**

**A.** Report of the President

As written.

**B.** Report of the President-elect

As written.

**C.** Report of the Executive Director

ED Operations Report as written.

**D.** Board Members' Reports

Several board members reported orally about their recent activities.

**E.** Director of Diversity & Inclusion

Ms. Hyland included her report on the recent projects and programs of the Diversity & Inclusion Department in her earlier presentation.

**F. MBA Liaison Reports**

Ms. Kohlhoff attended the May 2012 MBA Board meeting and had no new information to report.

**G. Oregon New Lawyers Division Report**

Mr. Eder reported on the ONLD's participation in OLIO and plans to be more involved in the program. ONLD has been very active with Legal Aid in 2012, yet few new lawyers gained employment opportunities compared to the experience in 2011. ONLD continues to hold its meetings around the state where many new lawyers contacted them to become involved.

**4. Professional Liability Fund**

Mr. Martinez gave a general update and presented the financial report. The assessment is under review, and it is unknown at this time if the PLF will ask for an increase. The PLF won its lawsuit against the Department of Health and Human Services, and the time to appeal has passed. Mr. Carter addressed the issue of data loss coverage. The PLF is exploring the possibility of adding this coverage as part of the excess program.

**5. Emerging Issues Discussion**

Ms. Naucler led a discussion on the frequency and location of board meetings. To maximize the cost-benefit of out-of-town local bar socials, it was suggested that local bars be notified of board meetings in their region and encouraged to attend. She asked board members to consider whether committees should meet less often or be reconfigured to increase effectiveness. Suggestions or comments should be sent to the Executive Director. It was also requested that the staff explore video conferencing for BOG meetings.

**6. BOG Committees, Special Committees, Task Forces and Study Groups**

**A. Policy and Governance Committee**

Ms. Hirschbiel presented the Policy & Governance Committee's recommendation that the Board adopt the amendments to Article 27 of the Oregon State Bar Bylaws regarding Unclaimed Lawyer Trust Account claims reviews. **[Exhibit A]**

**Motion:** Mr. Wade motioned to waive the one-meeting notice, Mr. Kranovich seconded, and the board voted unanimously to approve the waiver. The board voted unanimously to approve the recommendation of the Policy and Governance Committee and adopt the amendment.

Ms. Stevens informed the board of the Legal Ethics Committee's recommended changes to the Rules of Professional Conduct. The proposed amendment to RPC 5.4 is intended to alleviate concerns about the propriety of sharing fees under the new LRS business model. While there is considerable authority in the Comment to the ABA rules and in other jurisdictions, the LEC believes the proposed new language will resolve any questions in Oregon.

**Motion:** Mr. Haglund moved, seconded by Mr. Wade, to present the LEC proposal for amending RPC 5.4 to the HOD in November. The motion passed unanimously.

Ms. Stevens reviewed the LEC's recommendation for amending Rules 7.1 – 7.5, noting that the idea came from a failed HOD resolution in 2009. The LEC reviewed the report of the Advertising Task Force from August 2010 but opted for a less sweeping change in the rules. The proposal recommended by the LEC is to adopt the language of the ABA Model Rules 7.1 – 7.5. After discussion, there was a consensus that the proposed advertising rules should be reviewed by the Policy & Governance Committee in July and should also be circulated to the membership for comment before the BOG considers them again in August.

**B.** Budget and Finance Committee

**Motion:** The board voted unanimously to approve the committee motion to add high-yield funds to the bar's investment portfolio.

**C.** Public Affairs Committee

Mr. Larson presented a legislative update. The OSB law improvement proposals are at Legislative Counsel's office and bill drafts should be returned to the bar in mid-August.

**7. Other Action / Discussion Items**

**A.** Illinois State Bar Association Resolution/Report re: ABA Policy

Ms. Stevens presented the Illinois State Bar's request for support of its resolution concerning affirmation and re-adoption of existing ABA policy for the House of Delegates at the ABA Annual Meeting in August 2012.

**Motion:** Mr. Emerick moved, Mr. Haglund seconded, and the board voted unanimously to co-sponsor the ISBA's resolution for the ABA HOD. **[Exhibit B]**

**B.** Centralized Legal Notice System

The newspaper representatives in attendance introduced themselves. Ms. Naucner confirmed that the board had received their written submissions. She then invited board members to solicit additional information from the newspaper representatives. Mr. Prestwich said he would like a list of all community newspapers in the state showing the percentage of advertising revenue they receive from legal notices and what they charge to publish legal notices. Ms. Kohlhoff asked for more information on the free listings mentioned, and what would happen to them if a central notice system was established. Mr. Wade inquired about the number of "hits" on the ONPA's online notice system.

Mr. Haglund expressed his concern that the Central Notice proposal is a big project that the bar might not be prepared to face and it is not clear that we will have universal support even from our members. Obstacles he identified include: high start-up costs, undefined future costs, operating an unfamiliar business and significant political opposition. Ms. Matsumonji shared Mr. Haglund's concerns and also wondered whether an online system will adequately reach

rural communities where digital access may be limited. Mr. Kranovich concurred, and suggested this may not be an appropriate project for the bar.

**C.** CLE Seminars Business Plan

Ms. Lee presented the CLE Seminars Department's new business plan to the board, which emphasizes electronic delivery over live presentations, in line with recent trends. There will also be a new "annual pass" to replace the "season ticket." Ms. Lee explained that the plan is ambitious in its projections, but she is cautiously optimistic it will be successful.

**D.** Legal Publications Author / Editor Survey Summary

Ms. Krushke reported on the OSB Legal Publications Department survey sent to 661 authors and editors who contributed to books published in the last five years. They received 247 responses. Just over 75% of the respondents had volunteered as an author or editor more than once, and almost 15% had volunteered six or more times.

**E.** LRS Policy & Procedure Amendments

Ms. Hirschbiel presented recommended changes to the LRS Policies and Procedures to address concerns that the audit requirements might result in lawyers violating their duty of confidentiality to clients. The board also discussed the extent to which LRS information falls within the confidential submissions exception to the public records law, since it is a voluntary program.

**Motion:** Mr. Wade moved, Ms. Matsumonji seconded, and the board voted unanimously to approve the recommended changes. **[Exhibit C]**

**F.** OGALLA Request to Support ABA Resolution

Ms. Naucner presented the Oregon Gay and Lesbian Lawyers Association's request that the board support its proposed amendment to ABA HOD Resolution 108 urging accommodation for military spouse lawyers. OGALLA believes any accommodation should be extended to domestic partners.

**Motion:** Mr. Spier moved, Mr. Prestwich seconded, and the board voted unanimously to support the OGALLA request.

**G.** Client Security Fund Claims Recommended for Payment **[Exhibit D]**

Ms. Stevens presented the claims recommended for payment by the Client Security Fund Committee. She explained that the total of pending claims exceeds the balance in the Fund by approximately \$250,000. The committee recommends that the BOG approve claims as they are presented, taking funds from general reserves if necessary, which will be reimbursed from the 2013 assessment. The board members expressed concern about how the bar could avoid this kind of a problem in the future, whether there should be a per-lawyer cap on claims, and whether there are alternatives to raising the annual CSF assessment. The board asked that the CSF Committee develop recommendations for the board to consider in August.

**Motion:** Mr. Wade moved, Mr. Haglund seconded, and the board voted unanimously to approve the four non-Gruetter Client Security Fund Claims for repayment.

**Motion:** Mr. Haglund moved, Mr. Wade seconded, and the board voted 6-5 to approve the eight Gruetter Client Security Fund Claims for repayment. Mr. Wade, Mr. Haglund, Ms. Kohlhoff, Ms. Naucler, Ms. Billman, Ms. Matsumonji and Mr. Spier voted in favor. Mr. Emerick, Mr. Kranovich, Mr. Larson, Mr. Ehlers and Mr. Prestwich were opposed.

**H.** Proposed Legal Job Opportunities Work Group

Mr. Haglund summarized the reasons that he and Mr. Knight jointly recommend the formation of a fast-track BOG Task Force, tentatively named the Legal Job Opportunities Work Group.

**Motion:** Mr. Haglund moved, Mr. Prestwich seconded, and the board voted unanimously to approve the formation of the Legal Job Opportunities Work Group. **[Exhibit E]**

**I.** MCLE Request for Review

Ms. Stevens explained Kevin Lucey's request for a waiver of the late fee assessed for his failure to complete his child abuse reporting credit during his reporting period.

**Motion:** Mr. Wade moved, Mr. Emerick seconded, and the board voted unanimously to uphold the MCLE Committee's decision to deny Kevin Lucey's request for a waiver of the \$200 MCLE late fee.

**J.** OSB Diversity Branding

Ms. Hyland and Mr. Kranovich presented the department's Diversity Definition, Tag Line and Business Case Statement for approval by the board.

**Motion:** Mr. Wade moved, Mr. Prestwich seconded, and the board voted unanimously to accept the proposal.

**8. Closed Sessions – see CLOSED Minutes**

**A.** Judicial Session (pursuant to ORS 192.690(1)) – Reinstatements

**B.** Executive Session (pursuant to ORS 192.660(1)(f) and (h)) - General Counsel/UPL Report

**Motion:** Mr. Kranovich moved, Mr. Larson seconded, and the board voted unanimously to approve the closed agenda.

**9. Consent Agenda**

No appointments were submitted for approval.

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

None.

## **Article 27 Unclaimed Lawyer Trust Account Funds**

### **Section 27.100 Purpose**

This policy is established to provide direction and limits for the administration, disbursement, and claims adjudication of unclaimed lawyer trust account funds appropriated to the Bar. For the purposes of this section, "unclaimed lawyer trust account funds" are defined to mean all funds allocated to the bar pursuant to ORS 98.386(2).

### **Section 27.101 Administration**

(a) All unclaimed lawyer trust account funds appropriated to the Bar shall be received and held in a separate fund in the manner authorized by Section 7.1.

(b) All unclaimed lawyer trust account funds shall be invested in the manner described at Section 7.4. The Legal Services Committee may provide recommendations on the investment of unclaimed lawyer trust account funds to the Investment Committee.

### **Subsection 27.102 Disbursement**

(a) The Executive Director and the Chief Financial Officer are authorized and empowered to make disbursements of unclaimed lawyer trust account funds appropriated to the Bar to:

(1) Claimants for the payment of claims allowed under ORS 98.392(2), pursuant to Subsection 27.103; and

(2) The Bar, for expenses incurred by the Bar in the administration of the Legal Services Program, only if the Executive Director determines such disbursements will not impair the Bar's ability to make payments for claims allowed pursuant to Subsection 27.103 from unclaimed lawyer trust account funds.

(b) The Budget & Finance Committee, after seeking the advice of the Legal Services Committee, may recommend that the Board make disbursements of unclaimed lawyer trust account funds appropriated to the Bar to the Legal Services Program established under ORS 9.572 for the funding of legal services. The Board may authorize ~~is authorized to make such~~ disbursements ~~hereunder~~ only if the Board determines the disbursements will not impair the Bar's ability to make payments for claims allowed pursuant to Subsection 27.103 from unclaimed lawyer trust account funds.

### **Subsection 27.103 Claim Adjudication**

(a) When the Oregon Department of State Lands forwards a claim for unclaimed lawyer trust account funds to the Bar for review, ~~a special committee appointed by the Board~~ the Bar shall ~~review the claim and~~ approve or deny the claim within 120 days after the completed claim form and all necessary information to process the claim is received. If a claimant is requested to provide additional information and fails to do so within 90 days after the request is made, the Bar may close the file without further action. A claim shall be approved if a preponderance of the evidence proves the claimant is legally entitled to the unclaimed lawyer trust account funds. A claim shall be denied if the preponderance of the evidence does not prove the claimant is legally entitled to the property.

(b) The Executive Director or the Executive Director's designee shall decide whether to approve or deny all claims for amounts under \$500. Claims for amounts of \$500 or more must be reviewed and approved or denied by a special committee appointed by the Board.

~~(bc)~~ The Bar shall utilize claim forms published by the Oregon Department of State Lands. To evaluate whether to approve or deny a claim under Subsection 27.103(a), the Bar adopts the claim adjudication rules promulgated by the Oregon Department of State Lands at OAR 141-040-020; and OAR 141-040-0211 through OAR 141-040-0213. Where the rules reference the "Department" they shall be deemed to refer to the Bar.

~~(ed)~~ If a claim is approved pursuant to this Subsection, the special committee Executive Director or designee shall notify the claimant ~~and the Executive Director~~.

~~(de)~~ If a claim is denied, the special committee Executive Director or designee shall notify the claimant ~~and the Executive Director~~. The notice of denial shall include the specific reason for denial and shall include a notice of an opportunity to appeal the denial to the Board.

~~(ef)~~ A claimant may appeal the denial of a claim by making a request in writing ~~addressed~~ to the Executive Director ~~of the Bar~~, within 60 days after the date of written notice of denial of the claim. A request for appeal shall be in writing and shall identify issues of law or fact raised by the denial and include a summary of the evidence of ownership on which the claim was originally submitted. The Board will review each request for appeal at its next scheduled board meeting following receipt of the request and respond through the Executive Director in writing. The Board's response will include an explanation of the Board's reasoning.

~~(fg)~~ Additional evidence shall not be admissible on appeal to the Board, except by mutual consent of the Board, the claimant, and any other parties to the proceeding. If such additional evidence is not admitted, the Board shall allow the claimant to resubmit the claim to the special committee with the new evidence.

(gh) The Executive Director or designee shall notify the claimant of the Board's decision on appeal. If the Board approves a claim on appeal, the Board shall notify the claimant and the Executive Director.

~~(hi)~~ A holder of property who has delivered unclaimed lawyer trust account funds to the Bar pursuant to ORS 98.386(2) may make payment to or delivery of property to an owner and file a claim with the Bar for reimbursement. The Bar shall reimburse the holder within 60 days of receiving proof that the owner was paid. The Bar may not assess any fee or other service charge to the holder. As a condition of receiving the funds from the Bar, the holder shall agree to assume liability for the claimed asset and hold the Bar harmless from all future claims to the property.

~~(ij)~~ On a monthly basis, the Executive Director or ~~the Executive Director's~~ designee shall provide a listing of the ~~resolution of~~ claims resolved to the Department of State Lands. The Executive Director also shall provide an annual report of the claims resolved to the Board.



**ILLINOIS STATE  
BAR ASSOCIATION**

John G. Locallo • *President*  
jgl@amari-locallo.com

May 14, 2012

**RECEIVED**

MAY 17 2012

Oregon State Bar  
Executive Director

Ms. Sylvia Stevens  
Executive Director, Oregon State Bar Association  
16037 SW Upper Boones  
Ferry Road  
Tigard, OR 97224

Re: ISBA Resolution with Report Concerning Affirmation and Re-adoption  
of Existing ABA Policy

Dear Ms. Stevens:

The Illinois State Bar Association is offering a resolution for action by the House of Delegates at the ABA Annual Meeting in August 2012 in Chicago, Illinois. This resolution would affirm and readopt the existing ABA policy adopted in July 2000 that:

The sharing of legal fees with non-lawyers and the ownership or control of the practice of law by non-lawyers are inconsistent with the core values of the legal profession. The law governing lawyers that prohibits lawyers from sharing legal fees with non-lawyers and from directly or indirectly transferring to non-lawyers ownership or control over entities practicing law should not be revised.

Copies of the ISBA's Resolution, Report, Executive Summary and General Information as filed with the American Bar Association Division of Policy Administration on May 4, 2012, are attached.

**The Illinois State Bar Association urges and welcomes your association's support and co-sponsorship of this very important resolution.**

Amendments to Model Rules 1.5 and 5.4 have been recommended by the Commission on Ethics 20/20 which contravene the existing policy of the American Bar Association. The Commission has indicated that it is considering whether to propose such amendments to the House in February 2013 and it should be made clear prior to those deliberations that the existing policy of the ABA continues and is readopted. The proposals that have been offered for consideration have been given great public distribution, possibly resulting in the public perception that the profession is interested in allowing non-lawyers to invest in and own law firms. This perception will be negated by the adoption of the resolution proposed. It would be helpful to the further consideration of these matters by the Commission that the House make it clear that its current policy is affirmed and readopted.

If you would like to discuss this matter further, do not hesitate to contact us at:

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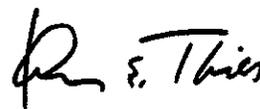
Robert E. Craghead  
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Illinois State Bar  
424 South 2<sup>nd</sup> Street  
Springfield, IL 62701  
(217) 525-1760  
[rcraghead@isba.org](mailto:rcraghead@isba.org)

We look forward to working with you on this important issue.

Very truly yours,



John G. Locallo  
President



John E. Thies  
President-elect

Enclosures

AMERICAN BAR ASSOCIATION  
ILLINOIS STATE BAR ASSOCIATION  
REPORT TO THE HOUSE OF DELEGATES

RESOLUTION

1 RESOLVED, that the policy adopted by the American Bar Association in  
2 July, 2000, to wit:

3  
4       The sharing of legal fees with non-lawyers and the ownership or  
5       control of the practice of law by non-lawyers are inconsistent with the  
6       core values of the legal profession. The law governing lawyers that  
7       prohibits lawyers from sharing legal fees with non-lawyers and from  
8       directly or indirectly transferring to non-lawyers ownership or control  
9       over entities practicing law should not be revised.

10  
11 is hereby affirmed and re-adopted as the policy of this Association.

## REPORT

The proposed resolution would affirm and re-adopt certain core principles and values of the legal profession identified in a 2000 ABA House of Delegates adopted Resolution (the "2000 HOD Resolution"). The 2000 HOD Resolution reads in part:

The sharing of legal fees with nonlawyers and the ownership or control of the practice of law by nonlawyers are inconsistent with the core values of the legal profession. The law governing lawyers that prohibits lawyers from sharing legal fees with nonlawyers and from directly or indirectly transferring to nonlawyers ownership or control over entities practicing law should not be revised.

Affirmation and re-adoption of these core principles and values is important now, particularly at a time when technological advances and globalization are pressuring the profession to lessen its commitment to the public and to professional independence.

### **I. The 2000 House of Delegates Resolution**

The 2000 HOD Resolution urged jurisdictions to implement and preserve certain core principles and values of the legal profession. Those principles and values included: (1) a number of specifically identified practice values such as undivided loyalty to a client, competence, and confidentiality; (2) lawyers are a single profession subject to individual jurisdictions' law governing lawyers; (3) preservation of the legal professions' core principles and values is essential to the proper functioning of the American justice system; (4) disciplinary agencies should reaffirm their commitment to vigorously enforcing their jurisdictions' law governing lawyers; (5) each jurisdiction should reevaluate and refine, if necessary, the definition of the "practice of law"; (6) each jurisdiction should retain and enforce those laws prohibiting the practice of law by entities other than law firms; (7) sharing legal fees with, and the ownership and control of the practice of law by, nonlawyers is inconsistent with the core values of the legal profession; and (8) sharing legal fees with nonlawyers and directly or indirectly transferring ownership and control of entities practicing law is prohibited and should not be revised.

The 2000 HOD Resolution was a response to certain proposals made by the ABA's Multi-Disciplinary Practice Commission to facilitate the provision of nonlegal services by law firms (and conversely, the provision of legal services by nonlegal providers). The 2000 HOD Resolution was an important

statement of professional independence, and a clear recognition of the preeminence of the public interest in the practice of law. It remains sound today.

## II. The 2012 Proposed Resolution

The proposed resolution provides that the ABA is affirming and re-adopting portions of the 2000 HOD Resolution, namely, the following principles and values: (1) sharing legal fees with nonlawyers and the ownership and control of the practice of law by nonlawyers are inconsistent with the core values of the legal profession; and (2) prohibitions against lawyers sharing legal fees with nonlawyers and from directly or indirectly transferring to nonlawyers ownership or control over entities practicing law should not be revised.

Highlighting these two principles is not intended to minimize the other identified principles and values. As explained below, referencing these two specific principles and values is important as a means to provide continued guidance to the ABA when considering revisions to existing Model Rules of Professional Conduct or other positions of the Association.

## III. The Need for Policy Affirmation and Re-Adoption

### A. Commission on Ethics 20/20

In 2009, the ABA established its "Commission on Ethics 20/20" (the "Commission") to consider the impact of technology and globalization on the legal profession and determine whether or not such influences warrant changes to the ABA's Model Rules of Professional Conduct ("Model Rules"). Since 2009, the Commission has circulated numerous materials for consideration within the legal community on these subjects, including both: (1) recommendations for changes to the Model Rules; and (2) "working drafts" of proposals for changes to the Model Rules.

On December 2, 2011, the Commission issued two letters. One was titled "For Comment: Discussion Paper on Alternative Law Practice Structures" which suggested the District of Columbia approach to permitting lawyer-nonlawyer partnerships with a cap, however, on nonlawyer ownership. The second letter titled "For Comment: Initial Draft Proposals on Choice of Law Issues Relating to Nonlawyer Ownership Interests in Law Firms" called for changes to Model Rules 1.5(e) and 5.4(a) to permit fee sharing by a lawyer with another firm that has nonlawyer partners and owners when one of the firms (or lawyers) is in a jurisdiction that allows nonlawyer ownership. A letter dated December 28, 2011 titled "Summary of

Actions by the ABA Commission on Ethics 20/20" recommended adoption of the above reference changes to Model Rules 1.5 and 5.4, and also recommended the preparation of a White Paper "regarding forms of alternative law practice structures not recommended by the Commission for adoption in the U.S. at this time, but noting that new developments may prompt reconsideration of this issue in the future, especially in light of changes in client needs and experiences with such practices elsewhere."

On April 16, 2012, the Commission publically announced its intention not to pursue any changes regarding nonlawyer ownership of law firms stating that "there does not appear to be sufficient basis for recommending a change to ABA policy on nonlawyer ownership of firms." However, at the same time, the Commission stated that it would "continue to consider how to provide practical guidance about choice of law problems" referencing the District of Columbia and some foreign jurisdictions which "permit nonlawyer ownership of law firms." Moreover, in this announcement, the Commission did not withdraw its call for a White Paper regarding certain alternative law practice structures.

Substantial media attention has been placed on the Commission's activities. Among other things, this attention may have created the perception that the ABA is going to change its Model Rules to permit fee splitting and non-lawyer ownership of law firms.

#### B. Choice of Law

As described in the December 28, 2011 "Summary of Actions by the ABA Commission on Ethics 20/20," the proposed amendments to Model Rule 1.5 would unambiguously allow a lawyer in a jurisdiction that prohibits nonlawyer law firm ownership to divide a fee with a lawyer in a firm that has permissible nonlawyer ownership. Similar to the proposed change to Model Rule 1.5, the proposed amendment to Model Rule 5.4(a) would establish the propriety of *intra*-firm fee sharing where a firm has offices in multiple jurisdictions, and where some of those jurisdictions allow nonlawyer ownership but others do not. Each of these amendments violate the current ABA policy. If adopted by the House, this would amount to an approval of nonlawyer fee splitting and ownership.

#### C. Importance of Policy Affirmation and Re-Adoption

Given the Commission's ongoing consideration of these matters, it is important that the House of Delegates provide its unambiguous direction. By affirming and re-adopting the portions of the ABA's 2000 policy discussed above, the Commission will have clear guidance on how, if at all, to proceed

with its evaluation of the issues. Such guidance would ensure that any proposal in this area reflects and is consistent with established ABA policy.

At the time this report is being written, at least two bar entities support the affirmation and re-adoption of the referenced portions of the 2000 policy: (1) the Illinois State Bar Association; and (2) the Senior Lawyers Division of the ABA. Other bar entities continue to review this issue.

#### **IV. Conclusion**

The Illinois State Bar Association respectfully urges the House of Delegates to affirm and re-adopt the referenced portions of its 2000 policy on the core principles and values of the legal profession.

Respectfully submitted,

John G. Locallo  
President, Illinois State Bar Association  
August, 2012

## GENERAL INFORMATION FORM

### To Be Appended to Resolutions with Reports

(Please refer to *Instructions for Filing Resolutions with Reports* for completing this form.)

Submitting Entity: Illinois State Bar Association

Submitted By: John G. Locallo, President

1. Summary of Resolution(s).

The Resolution urges the American Bar Association House of Delegates to affirm and re-adopt portions of existing ABA policy adopted in July, 2000 (Report No. 10F) that urged jurisdictions to implement and preserve certain core values of the profession developed to protect the public interest. Specifically, that policy recognized that: (1) sharing legal fees with nonlawyers and the ownership and control of the practice of law by nonlawyers are inconsistent with the core values of the legal profession; and (2) prohibitions against lawyers sharing legal fees with nonlawyers and from directly or indirectly transferring to nonlawyers ownership or control over entities practicing law should not be revised.

2. Approval by Submitting Entity.

The Resolution was approved by the Illinois State Bar Association ("ISBA") Board of Governors at its March 9, 2012 meeting and is an affirmation of the ISBA policy adopted by its Assembly in June, 2000.

3. Has this or a similar resolution been submitted to the House or Board previously?

No. The ABA policy which this resolution seeks to affirm and re-adopt was approved by the House in July, 2000 (Report 10F). Since original passage, no resolution to affirm and re-adopt that policy has been submitted.

4. What existing Association policies are relevant to this Resolution and how would they be affected by its adoption?

The relevant Association policy is that policy which was adopted by the House of Delegates in July, 2000 and which is sought to be affirmed and re-adopted by this resolution. The policy would be affirmed and re-adopted.

5. What urgency exists which requires action at this meeting of the House?

The Commission on Ethics 20/20 has circulated various drafts of proposed changes to Model Rules 1.5 and 5.4, including as concerns (1) choice of law issues relating to nonlawyer ownership interests in law firms (including fee sharing); and (2) alternative law practice structures. The referenced draft changes – which, if adopted, would be in contravention of ABA policy -- have been widely circulated to the public and the profession through the media. Among other things, this circulation may have created the perception that the ABA is going to change its Model Rules to permit non-lawyers to invest in and own law firms.

On April 16, 2012, the Commission publically stated that it intended not to pursue any changes regarding nonlawyer ownership of law firms. However, at the same time, the Commission stated that it is continuing to study “choice of law” issues in advance of possible action at the February, 2013 House of Delegates meeting. Moreover, the Commission is apparently continuing to recommend the preparation of a White Paper “regarding forms of alternative law practice structures not recommended by the Commission for adoption in the U.S. at this time,” noting that “new developments may prompt reconsideration of this issue in the future, especially in light of changes in client needs and experiences with such practices elsewhere.”

Given the ongoing review by the Commission of these matters, and the attention paid to this review by the profession and public, it would be helpful for the House to make clear that its current policy is affirmed and readopted.

6. Status of Legislation. (If applicable)

Not applicable.

7. Brief explanation regarding plans for implementation of the policy, if adopted by the House of Delegates.

The policy is self-implementing on the adoption of the resolution as it would affirm and readopt the existing policy.

8. Cost to the Association. (Both direct and indirect costs)

Not applicable.

9. Disclosure of Interest. (If applicable)

Not applicable.

10. Referrals.

The Report with Resolution will be circulated to state bar association delegations and elsewhere within the ABA as appropriate.

11. Contact Name and Address Information. (Prior to the meeting. Please include name, address, telephone number and e-mail address)

John E. Thies, President-elect  
Illinois State Bar Association  
424 S. Second Street  
Springfield, Il. 62702  
PH: 217-525-1760  
[ithies@webberthies.com](mailto:ithies@webberthies.com) (email)

Robert E. Craghead  
Executive Director, Illinois State Bar Association  
424 S. Second Street  
Springfield, Il. 62702  
PH: 217-525-1760  
[rcraghead@isba.org](mailto:rcraghead@isba.org)

12. Contact Name and Address Information. (Who will present the report to the House? Please include name, address, telephone number, cell phone number and e-mail address.)

John E. Thies, President-elect  
Illinois State Bar Association  
424 S. Second Street  
Springfield, Il. 62702  
PH: 217-525-1760  
[ithies@webberthies.com](mailto:ithies@webberthies.com) (email)  
CELL: 217.649.2288

## EXECUTIVE SUMMARY

### A. Summary of Recommendation.

The recommendation urges the American Bar Association ("ABA") to affirm and re-adopt existing ABA policy adopted in July, 2000 (Report No. 10F) that urged jurisdictions to implement and preserve certain core values of the profession developed to protect the public interest, including that: (1) sharing legal fees with nonlawyers and the ownership and control of the practice of law by nonlawyers are inconsistent with the core values of the legal profession; and (2) prohibitions against lawyers sharing legal fees with nonlawyers and from directly or indirectly transferring to nonlawyers ownership or control over entities practicing law should not be revised.

### B. Issue Recommendation Addresses.

Should the ABA affirm and re-adopt its policy adopted in 2000 that the sharing of legal fees with non-lawyers and ownership or control of the practice of law by non-lawyers are inconsistent with the core values of the legal profession.

### C. How Proposed Policy Will Address the Issue.

The recommendation will address the issue by affirming and re-adopting existing ABA policy providing that sharing legal fees with nonlawyers and/or allowing nonlawyer ownership and control of law firms is inconsistent with core principles of the legal profession.

### D. Minority Views or Opposition.

The Commission on Ethics 20/20 has recommended or may recommend proposals which are a violation and in contravention of current ABA policy. No specific opposition to the proposed resolution is known at this time.

## Policies

I. Goal: The goal of the Lawyer Referral Service (LRS) is to serve lawyers and the public by referring people who seek and can afford to pay for legal assistance (potential clients) to lawyers who are willing to accept such referrals, and also to provide information and other resources as appropriate. All lawyers participating in the LRS (panelists) agree to abide by these Lawyer Referral Service Policies (Policies) and Lawyer Referral Service Operating Procedures (Procedures).

II. Eligibility: Lawyers satisfying the following requirements shall be eligible to apply for participation in the LRS. The lawyer must:

- A. Maintain a private practice;
- B. Be an active member of the Oregon State Bar in good standing;
- C. Maintain malpractice coverage with the Professional Liability Fund (PLF); and
- D. Have no formal disciplinary, protective or custodianship proceedings pending.

Additional standards apply for special subject matter panels; the special subject matter panels and qualifications are stated in the Procedures.

III. Complaints:

A. Ethics Complaints: Complaints about possible ethical violations by panelists shall be referred to the Oregon State Bar Client Assistance Office.

B. Customer Service Complaints: LRS staff monitor complaints concerning the level of customer service provided by panelists. The character, number, and/or frequency of such complaints may result in removal from the LRS, with or without prior notice.

IV. Removal:

A. Panelists against whom disciplinary, protective or custodianship proceedings have been approved for filing shall be automatically removed from the LRS until those charges have been resolved. A matter shall not be deemed to be resolved until all matters relating to the disciplinary proceedings, including appeals, have been concluded and the matter is no longer pending in any form.

B. A panelist whose status changes from "active member of the Oregon State Bar who is in good standing" shall be automatically removed from the LRS.

C. A panelist who leaves private practice, fails to maintain coverage with the PLF, or files an exemption with the PLF shall be automatically removed from the LRS.

D. A panelist may be removed from the LRS or any LRS panel if the panelist violates these Policies and/or the Procedures.

E. In all instances in which the panelist is removed, automatically or otherwise, prior notice need not be given to the panelist.

#### V. Funding & Refunds:

A. Funding: All panelists shall pay the annual LRS registration fees and percentage remittances on all attorneys' fees earned and collected from each potential client referred by the LRS and accepted as a client.

1. Registration Fees: The Board of Governors (BOG) shall set the registration fees. All panelists shall pay registration fees annually for each program year and, except as provided in Paragraph (B) "Refunds" (below), registration fees are nonrefundable and will not be prorated.

2. Remittances: As provided below and explained further in the Procedures, if a panelist and client enter into an agreement whereby the panelist will provide legal services to the client for which the client will pay a fee, then remittances will be due the LRS upon payment of the fees by the client. The combined fees and expenses charged a client may not exceed the total charges that the client would have incurred had no referral service been involved. The BOG sets the percentage rate(s) to be applied to all panelists' attorneys' fees earned and collected from clients in excess of any applicable threshold. Remittances owed to the LRS are calculated by multiplying the percentage rate(s) by the earned and collected attorney fees. If a panelist fails to pay the appropriate remittance(s) to the LRS in accordance with these Policies and the Procedures, the panelist will be ineligible for referrals until all remittance(s) have been paid in full. A panelist's obligation to pay remittances owed to the LRS continue regardless of whether the panelist is in breach of this agreement, fails to comply with these Policies or the Procedures, is removed from the LRS, is no longer eligible to participate in the LRS, or leaves the LRS.

3. Communications Regarding Remittances: Upon settlement of a matter, the panelist shall be obligated to include the LRS with those who have a right to know about the terms of a settlement to the extent necessary to allow the LRS to ~~have knowledge of the terms of the settlement (including all fees paid in the case, whether paid directly by another party, or by settlement proceeds) so that the LRS may~~ determine the portion of the fees to which it is entitled.

## B. Refunds:

1. Upon written request, a panelist who has been automatically removed from the LRS shall be entitled to a prorated refund of registration fees. The amount of the refund shall be based on the number of full months remaining in the program year for which the fees were paid, as measured from the date the written request is received. An automatically removed panelist who again meets all of the eligibility and registration requirements prior to the expiration of the program year during which the automatic removal occurred may reapply and be reactivated for the remainder of that program year upon written request and payment of any amount refunded.

2. Upon written request, a panelist who is required to refund to a client a portion of a flat fee that was earned upon receipt shall be entitled to a refund of the same portion paid to LRS.

## VI. Review and Governance:

### A. Public Service Advisory Committee (PSAC):

1. The PSAC advises the Board of Governors on the operation of the LRS. The PSAC works with LRS staff in the development and revision of these Policies and the Procedures. Amendments to these Policies must be approved by the BOG. Amendments to the Procedures may be approved by a simple majority of the PSAC, with the exception that proposed revisions to the amount of the registration fees and the percentage rate(s) and threshold used to calculate remittances shall be submitted to the BOG for approval.

2. Upon written request, the PSAC shall review an LRS staff decision to remove a panelist at its next regularly scheduled meeting. Such written request shall be submitted to the PSAC within 30 calendar days of the date notice of the LRS staff decision is given to the removed panelist.

3. Upon written request, the PSAC may review an LRS staff decision regarding a panelist's registration, renewal, and/or special subject matter panel registration (collectively, registration issues). Such written request shall be submitted to the PSAC within 30 calendar days of the date notice of the LRS staff decision is given to the lawyer. The PSAC's review and decision regarding registration issues shall be final.

### B. Board of Governors (BOG):

1. Upon written request by any PSAC member or LRS staff, PSAC decisions regarding proposed revisions to the Procedures may be reviewed by the BOG. Upon

written request of a panelist, a decision of the PSAC regarding panelist eligibility or removal may be reviewed by the BOG, which shall determine whether the PSAC's decision was reasonable. The written request shall be submitted to the BOG within 30 calendar days of the date notice of the PSAC decision is given to the affected panelist.

2. The BOG shall set the amount of the registration fees and the percentage rate(s) and threshold used to calculate remittances.

3. These Policies may be amended, in whole or in part, by the BOG.

### **Operating Procedures**

1) How It Works:

a) Screening: Lawyer Referral Service (LRS) staff process referrals using information gathered from the potential client during the screening process — legal need, geographic area, language spoken, and other requested services (credit cards accepted, evening appointments, etc.) – to find a lawyer participating in the LRS (a panelist) who is the best match for each potential client.

b) Rotation: Referrals are made in rotation to ensure an equitable distribution of referrals among similarly situated panelists.

c) Processing: Generally, potential clients receive one referral at a time and will not be provided more than three referrals within a 12-month period for the same legal issue. Under certain circumstances, LRS staff may provide more than three referrals and may also provide several referrals at the same time. Such circumstances may include but are not limited to emergency hearings, referral requests from those who live out of state, lawyers interviewing panelists to represent their clients in other matters, etc. Potential clients are told by LRS:

i) To tell the panelist that they have been referred by the Oregon State Bar's Lawyer Referral Service;

ii) That they are entitled to an initial consultation of up to 30 minutes for \$35;

iii) That the panelist's regular hourly rate will apply after the first 30 minutes; and,

iv) That all fees beyond the initial consultation will be as agreed between the client and the panelist.

d) Follow-up: After processing a referral, LRS staff email a referral confirmation to the panelist and, if possible, to the potential client as well. A comprehensive status report is sent to panelists on a monthly basis. LRS staff will also send follow-up surveys to potential clients and clients referred by the LRS.

e) Initial Consultations:

i) Amount: Panelists agree to charge potential clients who live in Oregon and are referred by the LRS no more than \$35 for an initial consultation; except that no consultation fee shall be charged where:

(1) Such charge would conflict with a statute or rule regarding attorneys' fees in a particular type of case (e.g., workers' compensation cases), or

(2) The panelist customarily offers or advertises a free consultation to the public for a particular type of case.

ii) Duration: Potential clients are entitled to 30 minutes for a maximum of \$35. If the potential client and panelist agree to continue consulting beyond the first 30 minutes, the panelist must make clear what additional fees will apply.

iii) Telephone, Computer and/or Video Consultations: It is up to the panelist whether the panelist will provide initial consultations by any communication method other than a face-to-face meeting with the potential client. Panelists may indicate their preferences on their LRS applications.

iv) Location of Face-to-Face Consultations: All lawyer-client meetings must take place in an office, conference room, courthouse, law library, or other mutually agreeable location that will ensure safety, privacy, and professionalism.

2) Customer Service: Panelists agree to participate only on those panels and subpanels reasonably within the panelist's competence and where the LRS has qualified the panelist to participate on one or more special subject matter panels, as applicable. In addition, panelists must demonstrate professional reliability and integrity by complying with all LRS Policies and Procedures, including the following customer service standards:

a) Panelists will refrain from charging or billing for any fee beyond the initial consultation fee unless and until the panelist and potential client have agreed to the attorney's fees and costs for additional time or services beyond the initial 30-minute consultation;

b) Panelists will use written fee agreements for any services performed on behalf of clients that are not completed at the initial consultation;

c) Panelists will communicate regularly with LRS staff, including updating online profiles and providing notice if a panelist is unable to accept referrals for a period of time due to vacation, leave of absence, heavy caseload or any other reason;

d) Panelists will keep clients reasonably informed about the status of the clients' legal matters and respond promptly to reasonable requests for information. Panelists will return calls and emails promptly and will provide clients with copies of important papers and letters. Panelists will refer back to the LRS any potential client with whom the panelist is not able to conduct an initial consultation in the timeframe requested by the potential client or for any other reason; however, in order to provide a high level of customer service, the panelist may offer the potential client a referral to another lawyer, provided:

i) The subsequent lawyer is a panelist;

ii) The potential client is informed of the potential client's option to call the LRS back for another referral rather than accepting the offered substitution;

iii) The potential client agrees to the substitution; and

iv) Both the referring panelist and subsequent lawyer keep the LRS apprised of the arrangement and disposition of all referrals, and ensure that all reports to the LRS clarify and document all resulting lawyer-client agreements and relationships, if any.

e) Panelists will submit any fee disputes with LRS-referred clients to the Oregon State Bar Fee Arbitration Program, regardless of who submits the petition for arbitration and regardless of when the dispute arises.

### 3) How To Join the LRS:

a) Before submitting your application and payment, please read through the Lawyer Referral Service Policies (Policies) and these Procedures completely and contact LRS staff with any questions you may have;

b) Complete and submit the LRS Application Form; log in at [www.osbar.org](http://www.osbar.org) and click on the link for the application;

c) Complete and submit the Subject Matter Qualification forms for certain designated panels (if required);

d) Ensure that your Professional Liability Fund (PLF) coverage is current and that all outstanding PLF invoices are paid; and,

e) Pay all registration fees.

4) Program Year: The LRS operates on a 12-month program year. The program year begins July 1 and ends June 30. Although the LRS will accept applications at any time, registration fees are not prorated for late registrants. Payment of the registration fee shall entitle the panelist to participation only for the remainder of the applicable program year. The LRS may refund registration fees only if requested prior to the beginning of the applicable program year.

5) Territories: LRS registration uses geographic territories based upon population density, counties, court locations and potential client and panelist convenience. A chart of the territories and the counties in each territory may be found on the application. Payment of the base registration fee (see below) includes registration for one territory, which shall be the territory in which a panelist's office is located, known as the panelist's home territory. For an additional fee, panelists may elect to register for additional territories outside of his or her home territory for some or all of the general areas of law panels selected.

6) Subject Matter Panel Qualifications: Registration for special subject matter panels requires a separate form and affirmation showing that the panelist meets basic competency standards. The subject matter panels currently include: felony defense; interstate/independent adoption; deportation; and Department of Labor-referred FMLA/FLSA matters. Additional information and forms are available on the bar's website at [www.osbar.org](http://www.osbar.org).

7) Registration Fees (effective 07/01/12):

a) Basic Registration Fee (including home territory and up to four areas of law):

i) \$50 for those admitted in Oregon for less than 3 years.

ii) \$100 for those admitted in Oregon for 3 years or more.

b) Enhanced Services Fees:

i) Additional Territories: \$50 for each additional geographic territory

ii) Statewide Listing: \$300

iii) Additional Panels: \$30 for each additional area of law beyond the four included in a basic registration)

8) Remittances:

a) Percentage Rate: 12%

b) Threshold: \$0

c) The Math: Panelists will pay the LRS a remittance on each and every LRS-referred matter in which the earned and collected attorneys' fees meet or exceed the threshold or "deductible." The remittance is a percentage only of the panelist's professional fees and does not apply to any costs advanced and recovered, or the \$35 initial consultation fee.

d) Remittance Payments to the LRS:

i) Panelists will report and ~~pay submit~~ remittances to the LRS no later than the last day of the month following the month in which the attorney fees were paid. in the next status report period after the fees have been paid (either in response to a bill or if the panelist has billed against funds held in trust). If a panelist fails to report or pay the appropriate remittances to the LRS as required, within the next reporting period, LRS staff shall notify the panelist requesting immediate payment of the appropriate remittances to the LRS. LRS staff may remove the panelist from rotation and cease referrals to the panelist until all remittances are paid in full.

~~ii) Final Case Status Reports and Payment: Panelists must submit a final report at the conclusion of the matter reflecting the dates and amounts of all fees paid by or on behalf of the client, accompanied by a copy of the final client billing or settlement statement. The final payment of all remittances due on the matter must be received by the LRS within 30 days of the panelist's receipt of the client's final payment.~~

~~ii) iii) If the panelist fails to pay the appropriate remittance to the LRS within 30-90 days from the date of payment of attorney fees to the panelist, the bar may take any reasonable and financially prudent methods to collect on amounts owed to LRS. LRS staff shall remove the panelist from all referral panels and cease all referrals to the panelist until all remittances owed are paid. If the panelist fails to respond within 10 business days of a delinquency notice sent by LRS staff, the matter will be presented to the Public Service Advisory Committee (PSAC). The PSAC may authorize LRS staff to undertake collection efforts or may refer the matter to OSB general counsel's office.~~

~~iii) iv) A panelist who has been delinquent more than 30 days past due in payment three times is subject to permanent expulsion from the LRS. The PSAC's decision on the expulsion is final.~~

e) Special Circumstances:

i) If an LRS-referred client puts other potential clients in touch with the panelist for the same matter (a multiple-victim auto accident or multiple wage claims against the same employer, for instance), the remittance due to the LRS applies to all fees earned on the matter.

ii) If an LRS-referred matter closes and some time later the client contacts the panelist on an unrelated matter, no remittance is due to the LRS on the new, unrelated matter.

iii) If a panelist elects to share or co-counsel a client matter with another lawyer for any reason, the panelist is solely responsible to the LRS for remittances on all fees generated during the course of representation of the client in that matter (including any fees paid to the other lawyer brought in on the matter).

9) Renewals: To remain an active panelist in the LRS and continue to receive referrals, panelists must:

a) Be current with all remittances owed to the LRS and pay all registration fees owed for the upcoming program year by the deadline stated in the renewal notice; and

b) Continue to be eligible to participate in the LRS and otherwise be in compliance with the Policies and these Procedures.

10) Reporting: LRS will provide panelists a monthly report listing all the panelist's pending or open referral matters. Panelists will complete the report indicating the status of each matter; failure to complete all such reports within 30 days will be grounds for removal from rotation. Reports are considered delinquent until completed and all remittances are paid.

~~11) If, in its sole discretion, the LRS deems it necessary, the LRS may audit the client file and the panelist's records to determine if the correct remittances have been paid.~~

~~11~~2) Follow-up: LRS sends follow-up surveys to clients and potential clients asking if they consulted with the panelist, amounts of fees paid, and if they were satisfied with the LRS process. Any pertinent information will be forwarded to panelists, and, if deemed necessary by LRS staff, to the PSAC. The LRS also routinely monitors referrals by checking court dockets, legal notices, etc.

~~12~~3) Remittance Disputes/Audits: LRS may request panelists to verify that correct remittances have been paid. Upon request, panelists will provide verification to LRS to the extent reasonably necessary to resolve the remittance dispute and to the extent the rules of professional conduct allow. Remittance disputes between the LRS and panelists

~~that cannot be resolved are subject to collection action. Remittance disputes between the LRS and panelists that cannot be resolved through intervention by the Executive Director or the PSAC are subject to collection actions. Participation in the LRS constitutes the panelist's and the client's authorization for the LRS staff or a duly authorized agent to examine and audit the panelist's financial records and the legal files with regard to clients. The audit may include but is not limited to charts of accounts, general account records, court filing records, calendars, appointment records, time sheets, docket sheets, engagement letters, fee agreements and contracts with clients — in any and all forms and formats, media, files, devices, computers and accounts, whether electronic or otherwise.~~

134) Participation in other Referral & Information Services Programs: In addition to administering the LRS, the OSB Referral & Information Services Department also administers the following other programs that provide referrals in the same or similar areas of law: Military Assistance Panel, Problem Solvers Program and Modest Means Program. More information can be found at [www.osbar.org/forms](http://www.osbar.org/forms).

# OREGON STATE BAR

## Board of Governors Agenda

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**Meeting Date:** June 22, 2012  
**From:** Sylvia E. Stevens, Executive Director  
**Re:** Client Security Fund Claims Recommended for Payment

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### Action Recommended

Consider the May 5, 2012 recommendation of the CSF Committee that the following claims be paid:

No. 2010-16 FIELDS (Bazurto)	\$17,517.00
No. 2010-25 GINSLER (Kiker)	2,434.03
No. 2011-23 MORASCH (Baker)	3,900.00
No. 2012-30 HAMMOND (Elliott)	650.00
No. 2012-06 GRUETTER (Gravance)	50,000.00
No. 2012-11 GRUETTER (Hines)	50,000.00
No. 2012-12 GRUETTER (Vice)	50,000.00
No. 2012-13 GRUETTER (Standley)	13,855.63
No. 2012-16 GRUETTER (Ihrig)	500.00
No. 2012-21 GRUETTER (Meekins)	6,636.59
No. 2012-32 GRUETTER (Lowery)	2,823.17

**TOTAL** **\$198,316.42**

The committee has given considerable thought to how to pay the outstanding claims, given that the total of pending claims exceeds the Fund balance. At present there are 51 claims pending (including those in this report). If paid at the maximum allowed, the total of the outstanding claims is \$1,031,743. The Fund balance as of April 31, 2012 was \$805,000, leaving a shortfall of \$208,743. (Note: the cost of operating the fund is also charged against the fund balance, so the shortfall will actually be greater.<sup>1</sup>) Claims from clients of Bryan Gruetter make up more than \$750,000 of the total outstanding.<sup>2</sup>

The committee identified three possible options for dealing with the fund shortfall: (1) hold all approved claims until the November meeting and pro rate payments from available funds, with the balance to be paid in 2013 after the next assessment is collected;<sup>3</sup> (2) pay all

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<sup>1</sup> For 2012, the budgeted expenses other than payment of claims but including the ICA is \$58,800. Most of that is salaries that are ½ paid by the middle of the year; assuming about \$30,000 remaining expense, the year-end shortfall will be approximately \$238,743.

<sup>2</sup> In its 45 year history, the largest CSF payout on claims against a single lawyer was \$179,000 on account of Fred Young in 1989-1990. Six other lawyers have been responsible for claims in excess of \$100,000: Roger Anunsen, \$137,000; Merlin Estep, \$108,000; William Judy, \$176,000; Lewis King, \$101,000; Carl Loennig, \$151,000; and Gary Rae, \$131,000.

<sup>3</sup> The Committee will have a formal recommendation for the BOG in August, but will likely ask that the annual CSF assessment (\$15) be at least doubled.

claims as they are completed until the available fund balance is depleted, deferring payment of the others until early 2013 after the next assessment is collected; (3) pay all claims as they are completed with a “loan” from OSB general reserves, to be repaid as CSF funds are available in 2013.

By a unanimous vote, the committee recommends the third option as best exhibiting the OSB’s commitment to assisting the claimants, particularly the victims of Bryan Gruetter. The committee urges the BOG to authorize a “loan” from general reserves if needed to pay claims as they are presented between now and November. Any such amounts will be reimbursed to the general reserves from the 2013 assessment.

## **Background**

### **No. 2010-16 FIELDS (Bazurto) - \$17,517**

This claim is a comedy/tragedy of errors and miscommunications. Cecilia Bazurto suffered serious permanent injuries from an auto accident in December 2003. She was treated at OHSU, which thereafter duly perfected a hospital lien for approximately \$18,600. Bazurto retained Salem attorney Stanley Fields to pursue a personal injury claim on her behalf. (Note: Bazurto does not speak or read English and relies on others to communicate and translate for her.)

In April 2004, Bazurto’s injury claim was settled for policy limits of \$25,000. After paying himself his 1/3 fee, Fields retained the balance of the settlement funds, explaining to Bazurto that he would try to negotiate a compromise of the OHSU lien so she would receive some of the settlement funds. (After deduction of Fields’ fee, the balance of funds was insufficient to satisfy OHSU’s lien.) Thereafter, Bazurto heard nothing from Fields and he made no offer to OHSU.

In June 2005, Fields submitted a Form B resignation arising out of his mishandling of several client’s trust funds, failure to file tax returns, and failure to respond to the bar’s inquiries. His representation of Bazurto was not part of the disciplinary matter. Bazurto claims she was never informed that Fields could no longer practice law and never received any information about how to contact him or get her money.

In October 2005, Bazurto filed claims with the CSF and the PLF. Both the CSF and the PLF investigated the matter and determined that the funds remained in Fields’ trust account. In September 2006, the CSF denied Bazurto’s claim, finding no evidence of dishonesty. The PLF also denied her claim, finding no negligence on Fields’ part. The PLF referred Bazurto to a Salem attorney who was willing to help her resolve the OHSU lien and she was advised by the CSF to follow up with that attorney because the funds in Fields’ trust account could be released only upon resolution of the OHSU lien.

Bazurto did nothing more (in retrospect it is apparent she didn’t know what to do) until February 2007, when she again contact the PLF. The PLF contacted Fields and arranged for him to issue a check payable jointly to Bazurto and OHSU. In June 2007 Bazurto received the check, in the amount of \$17,517, but again seemed not to know how to proceed and took no action

for several months. OHSU also appears to have done nothing. In the summer of 2008 Bazaruto sent the check to OHSU, which was unable to negotiate the check because of its age. OHSU tried unsuccessfully to contact Fields for a replacement check. Bazaruto again contacted the PLF. In November 2009, Fields responded that he had withdrawn Bazaruto's funds from trust and could not replace them. The PLF passed that information on to Bazaruto.

In June 2010, Bazaruto filed another claim with the CSF (the spelling of her name differed from the original claim, so the CSF didn't realize for some time that it was the same matter). The CSF Committee member originally assigned to investigate did nothing for nearly 18 months. (She was eventually removed from the Committee for failure to attend meetings.) The claim was reassigned in December 2011.

The CSF subpoenaed Fields' trust account records from his bank and confirmed that between March and August 2009, Fields withdrew all but \$24 from his trust account. The investigator also confirmed that OHSU's lien has expired and that OHSU has for several years considered Bazaruto's account uncollectible.

Bazaruto has new counsel (John Zbinden) who says OHSU is now willing to accept \$10,000 to settle Bazaruto's account. Zbinden questions the viability of OHSU claim, given its age.

The CSF recommends that Bazaruto be awarded \$17,517 based on the amount Fields tried to refund in June 2007.<sup>4</sup> (Note, however, that Fields' trust records showed a balance in June 2007 of \$17,584.75; the discrepancy has not been explained.) The committee also recommended that the requirement for a judgment be waived on the grounds that Fields' whereabouts are unknown, his ability to satisfy a judgment is doubtful, and it would be a substantial hardship for Bazaruto to pursue a judgment.

NOTE: Subsequent to the Committee's decision on this claim, a newly-appointed Committee member informed the Fund Administrator that Fields was employed by the Workers' Compensation Division. The Administrator spoke to Fields, informing him of the likelihood that the CSF will reimburse Bazaruto and that the Bar will seek to recover that payment from him. Fields was cooperative, acknowledging his obligation and apparently willing to work out some kind of payment plan. We will negotiate the details of a repayment plan with him once the claim is paid; any payment plan will be conditioned upon Fields stipulating to a judgment in favor of the Bar.

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<sup>4</sup> Although this claim is old, it falls within the applicable limitations period. CSF Rule 2.8 requires that claims be presented within 2 years of the lawyer's resignation or the date the claimant should have known of the loss, but in no event more than 6 years from the date of the loss. Bazaruto's first claim was filed in 2005, while Fields still had her funds. Her second claim was filed in 2010, approximately 6 months after she learned that Fields has misappropriated her funds.

**No. 2010-25 GINSLER (Kiker) – \$2,434.03**

Jeffrey Kiker hired William Ginsler to secure the discharge of a particular debt in bankruptcy. Ginsler filed a Chapter 13 and handled the case for a couple of years, although he missed hearings and showed up for others unprepared. Early in the representation, Ginsler recovered \$2434.03 that had been wrongfully garnished by one of Kiker's creditors.

In April 2010, Ginsler obtained permission to withdraw as Kiker's attorney in the Chapter 13, citing "health reasons." At the time he was in the midst of a disciplinary case involving more than 11 client matters; he resigned Form B in October 2010.

At some point, Kiker learned that the Chapter 13 would not discharge the debt he was concerned about. Kiker went to the PLF, which arranged for new counsel to take over the bankruptcy and convert it to a Chapter 7. The bankruptcy was ultimately concluded successfully without further cost to Kiker.

In his application for reimbursement, Kiker sought more than \$8800, comprised of \$2800 in fees paid to Ginsler, \$3600 paid to the Chapter 13 trustee and the \$2434.03 garnishment recovery that Ginsler had never delivered to him. The bankruptcy court records show that all Chapter 13 payments were accounted for and were used to pay creditors and administrative expenses, including Ginsler's fees.

The committee recommends an award to Kiker of \$2434.03 representing the recovered garnishment proceeds that Ginsler apparently misappropriated. (The committee concluded that Kiker suffered no loss in regard to the Ginsler's fees or the Chapter 13 payments.)The committee also recommends waiving the requirement for a civil judgment; Ginsler's Form B was for very similar conduct in numerous cases. Moreover, Ginsler's whereabouts are unknown and it would be difficult for Kiker to obtain a judgment.

**No. 2011-23 MORASCH (Baker) - \$3900**

Lori Baker hired Marsha Morasch in October 2009 to represent her in a marital dissolution involving custody and parenting time issues. She deposited a \$5000 retainer against Morasch's \$250/hour fees. Morasch filed a petition and a temporary custody hearing was set for January 18, 2010. On the day of the hearing, Morasch's assistant informed Baker and opposing counsel that Morasch would not appear because she had broken both of her feet. The matter was reset to March 2, 2010. Baker had a meeting scheduled with Morasch on February 18 to prepare for the hearing, but Morasch cancelled without explanation.

On the morning of March 2, 2010, opposing counsel emailed a proposed stipulated order on temporary custody to Morasch. Baker told Morasch she couldn't agree to the terms of the proposed order and that she wanted to go ahead with the hearing. An hour before the hearing Morasch's assistant called Baker to say he couldn't locate Morasch and that Baker would need to go to the hearing by herself. Baker did so and, feeling that she had no option, signed the proposed order prepared by opposing counsel. The next day Baker fired Morasch,

and requested that Morasch deliver her file and the unused portion of the retainer to Baker's new counsel. The file was delivered after several more requests, but Baker never received any portion of the retainer or an accounting from Morasch.

Morasch stipulated to a six-month suspension beginning February 2011 during the pendency of formal proceedings involving seven client matters, including Baker's. She has not sought reinstatement. (The CSF has made awards totaling \$11,600 to three of Morasch's other clients.)

CSF Rule 2.2 allows for a refund of fees only if the lawyer's services are of no or only *de minimis* value to the client. The committee found that to be essentially the case here, since Baker's new attorney had to renew discovery requests and re-negotiate the temporary custody order. Baker did get value from the petition Morasch filed, however. Accordingly, the committee recommends payment of \$3900, giving credit for the filing fee and about 3 hours of work by Morasch. No judgment is required because Morasch's disciplinary stipulation arose in part from her representation of Baker.

#### **2012-30 HAMMOND (Elliott) - \$650**

Mark Elliott hired Paula Hammond in December 2011 to prepare a QDRO to effectuate the division of his former wife's pension, as directed in their divorce judgment. He paid Hammond \$650, which he understood would cover the work unless an unanticipated complication arose.

In mid-January 2012, Hammond informed Elliott that she was closing her practice, citing health reasons. She did not mention that she had signed a Form B resignation on December 29, 2011 that would be effective February 16, 2012.

Hammond had arranged for Ann Mercer to complete the QDRO, which she did, charging Elliott the same fee that Hammond had quoted. Mercer said Hammond's file showed little or no work on Elliott's matter.

Elliott had several e-mail exchanges with Hammond inquiring about a refund of his unearned fees; in her last e-mail (dated February 7, 2012) she promised "I'll be sending it to you shortly, Mark. I haven't forgotten you."

Hammond's resignation was in connection with four client complaints as well as additional charges identified by the bar while investigating the client complaints. Three of the matters involved allegations of excessive fees or failure to account for and refund unearned fees. In response to the Assistant Disciplinary Counsel's inquiry whether Hammond would be returning any of the client's funds in conjunction with her resignation, Hammond's attorney responded, "I think it makes sense to refer these folks to the Client Security Fund."

The committee recommends an award to Elliott for the entire \$650 and a waiver of the requirement for a judgment. Hammond's resignation was for virtually identical conduct with

other clients; she is also without assets to satisfy a judgment and the amount in question doesn't justify the cost of even a small claims action.

### **Bryan Gruetter Claims** *Common Facts*

Bryan Gruetter had a successful plaintiff's personal injury practice in Bend for more than 8 years. Prior to opening his own office, he worked at the Dunn Carney and Hurley Re firms. He was well known and widely respected in the Bend legal community. Gruetter was Treasurer of the ONLD in 1994 and served on the OSB Legal Ethics Committee (he was chair in 1995). For several years he presented annual ethics CLEs in Bend with Deschutes County Judges.

In 2010 and 2011 Gruetter had two young lawyers working with him as independent contractors, Joe Walsh (Bend office) and Troy Woods (Portland office). He also had several support staff. Gruetter's wife, Michelle, handled the business affairs of the practice including all disbursements from the trust account.

Gruetter had an unblemished disciplinary history until he was admonished in August 2011 for failing to promptly disburse payment to a third party lienholder. He excused his delay as the result of failing to enter the payment date in his "tickle system," being caught up in a complex trial, and health issues that took him away from the office. He assured DCO that he was hiring a new assistant to help bring order to his practice.

Unbeknownst to Disciplinary Counsel's Office, colleagues in Bend had noticed for several months that Gruetter was behaving strangely. He was often seen playing video poker in bars, he missed appointments and increasingly failed to show for court hearings or sought last-minute continuances alleging on health problems or calendar conflicts.

In late November 2011, a complaint was filed alleging that Gruetter had failed over the course of a year to pay a client's hospital lien. The hospital had recently obtained a judgment and was garnishing the client's wages. The bar also heard from a local attorney (and former employee of Gruetter) that Gruetter had been absent from his office for weeks on end, and that he was not responding to client inquiries and that the complainant was only one of many clients who had similar issue with Gruetter.

Within a few days, additional complaints began to come in, all alleging inability to communicate with Gruetter or to receive payments from his office. By January 20, 2012, the bar had received 16 complaints. On January 24, 2012, on the Bar's petition, the Deschutes County Court entered a temporary protective order making OSB the custodian of Gruetter's practice. On February 3, 2012, a stipulated order appointing OSB as custodian was entered. On February 10, 2012, the Bar filed a petition for an order suspending Gruetter from practice during the pendency of formal disciplinary proceedings. Within a few weeks, Gruetter submitted a Form B resignation (citing 25 pending matters) which was accepted by the Supreme Court and became effective April 19, 2012.

Within days of the first disciplinary complaint, Gruetter's clients began to present applications for reimbursement from the Client Security Fund. As of June 12, 2012, there were 31 claims pending with the Fund alleging losses ranging from \$500 to \$142,000. The Gruetter claims constitute more than \$750,000 of the potential Fund payments discussed in the "Action Recommended" section above. Through the custodianship we were able to get copies of the client files for most of the claimants. We also subpoenaed Gruetter's Lawyer Trust Account records from January 2010 through January 2012.

The custodianship is closed; pursuant to the court's final order the custodian has delivered the \$2500 in Gruetter's trust account to the CSF. We understand the US Attorney will be prosecuting Gruetter for wire fraud and we have been cooperating with the USAO in exchanging documents (including Gruetter's client files which were seized by Bend police in March 2012 and eventually released to the USAO when it took over the prosecution).

Based on its review of the first six Gruetter claims, the CSF Committee recommends that the requirement for judgments be waived in all cases. In some of the smaller cases that were part of his Form B resignation, no judgment is required in any event. For the others, the committee believes that pursuing a judgment against Gruetter is pointless. He has no assets of which anyone is aware, and he is likely to be convicted and imprisoned before too long. Additionally, it would be an undue burden on his clients to have incur the additional expense of legal proceedings.

**No. 2012-06 GRUETTER (Gravance) - \$50,000**

David Gravance hired Gruetter in January 2011 to pursue a medical malpractice case. He agreed to a 40% contingent fee and to pay all litigation costs. Client deposited \$300 with Gruetter toward those costs.

The case settled in mediation for \$85,000 in December 2011. The full settlement amount was deposited into Gruetter's trust account. After deduction of Gruetter's fee (\$34,000) and unreimbursed costs (\$470), Gravance's share was \$50,530. Although Gruetter's file suggests a health insurer lien and unpaid medical expenses in excess of \$33,000, there is no record of any payments. The investigator determined that Gravance is contractually obligated to BlueCross/BlueShield for approximately \$27,000. Client will be denied future benefits unless the outstanding amount is paid.

The committee recommends that Gravance be awarded \$50,000, the maximum allowable from the Fund.

**No. 2012-11 GRUETTER (Hines) - \$50,000**

In 2008 Gruetter represented a minor child in a case against the State of Oregon for injuries suffered in foster care. The settled in June 2010 for \$100,000. After deduction of Gruetter's fee of \$33,333 and costs of \$1,533, the minor child's share was \$65,134.

According to the court order approving the settlement, the minor's share was to be placed in a conservatorship account. Gruetter deposited the settlement proceeds into his trust account on June 30, 2010. Eight months later, in February 2011, Gruetter secured the appointment of Donna Hines as conservator. When Hines didn't receive the child's share immediately, she hired Jim Peterson to help her. Peterson made demand on Gruetter in March, August and December 2011, to no avail. In January 2012, Hines filed suit against Gruetter in Deschutes County seeking damages of \$195,000 for breach of contract, breach of fiduciary duty, conversion, negligence, and financial abuse of a vulnerable person. The case is still pending, with Gruetter represented by the PLF. No quick resolution is expected.

Both Hines and the child's parents have made claims to the Fund. The committee recommends an award of \$50,000 to Donna Hines as conservator for the minor child. The fee agreement was signed by the child's parents and by the guardian ad litem (a local attorney). Hines was appointed conservator after the case was resolved and the GAL was relieved of responsibility. CSF Rule 2.1 requires that a loss of money is eligible for reimbursement if the claim "is made by the injured client or the client's conservator, personal representative, guardian ad litem, trustee, or attorney in fact."

**No. 2013-12 GRUETTER (Vice) - \$50,000**

In October 2008 Joe Vice retained Gruetter's firm to probate the estate of and pursue a wrongful death claim concerning his mother, Bertha Vice. Joe was appointed personal representative of Bertha's estate and the wrongful death claim was filed. The claim was settled for \$215,000. After deducting attorney's fees, medical expenses, burial expenses, and DHS and Medicare liens, Gruetter's firm calculated \$130,173.79 to be distributed among Bertha's heirs.

In November 2011, the heirs/beneficiaries agreed to the following apportionment of the net settlement proceeds of \$130,173.79, which was confirmed in an order in the probate:

Son and PR, Joe Vice	\$71,595.57
Daughter, Betty Neimester	26,034.76
Son, Jay Vice	26,034.76
Granddaughter, Vanessa Grome	3,254.34
Granddaughter, Tammy Kearns	3,254.34
Granddaughter, Melody Howell	2,169.57
Grandson, Richard Vice	2,169.57
Great-granddaughter, Mary Vice	2,169.57

Over the next few months, Gruetter's office paid all of the expenses with the exception of the \$644.46 DHS lien, but never distributed any funds to Joe or the other beneficiaries. As a result, the loss attributable to Gruetter is increased to \$130,818.25.

Joe Vice submitted the CSF application for reimbursement for himself and "for listed family members" (and attached a copy of the apportionment agreement of the above-named

family members. On May 4, 2012, the CSF received a “revised application” for reimbursement from attorney Brooks Cooper on behalf of Joe, Betty, Jay and Tammy asking that *each* of them (but not the other beneficiaries) be reimbursed in the amounts shown above (with Joe’s reimbursement limited to the \$50,000 CSF maximum award).<sup>5</sup>

The CSF Committee discussed at some length whether to consider this as one claim or eight claims (the committee had not seen the “revised” claim of May 4, but raised the issue on its own based on the apportionment agreement). In that discussion, the committee took note of the following:

- CSF Rule 2.1 provides that a loss is eligible for reimbursement if the claim is made by “the injured client or the client’s conservator, personal representative, guardian ad litem, trustee, or attorney in fact.”
- Pursuant to Rule 1.4: “‘Client’ 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.”
- CSF Rule 2.5 requires that: “ The loss arose from, and was because of:
  - (1) 2.5.1 an established lawyer-client relationship; or
  - (2) 2.5.2 the failure to account for money or property entrusted to the lawyer in connection with the lawyer’s practice of law or while acting as a fiduciary in a matter related to the lawyer’s practice of law.

Several committee members argued that Rule 2.5.2 is inconsistent with 2.1 and 2.5.1 because it appears to allow reimbursement to non-clients whose money or property was entrusted to the lawyer acting as a fiduciary. They suggested that Gruetter was holding funds of Bertha’s estate for the benefit of the beneficiaries and should thus be eligible for reimbursement under 2.5.2.

However, a majority of the committee disagreed, concluding that only clients are eligible for reimbursement from the CSF. Here, Joe Vice was Gruetter’s client and as such he is the only claimant to the fund. Whether Joe is required to share the award according to the apportionment agreement is an issue for Joe and his lawyer to determine. Accordingly, the committee recommends an award of \$50,000 payable to Joe Vice as personal representative of the estate of Bertha Vice.

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<sup>5</sup> The four persons named in the “revised” application are apparently the statutory beneficiaries of the wrongful death claim. Mr. Vice is now claiming that Gruetter committed malpractice in allowing him to agree to share the wrongful death proceeds with non-statutory beneficiaries.

**No. 2012-13 GRUETTER (Standley) - \$13,855.63**

Gina Standley retained Gruetter in November 2010 for representation in a personal injury case; he assigned it to Troy Wood. The case was settled a year later for \$20,960 and a check in that amount was deposited into Gruetter's trust account on November 18, 2011.

On December 6, 2011, Wood sent Standley a final accounting letter showing a net recovery to her of \$13,885.63 after deduction of attorney fees of \$6,986.66 and costs of \$117.71. On December 19, 2011, Standley sent a letter demanding release of her share of the settlement. Wood was unable to assist because he had no access to funds in trust; all distributions had to go through Michelle or Bryan Gruetter. Neither Gruetter responded to Standley's letter or phone messages.

The committee recommends an award to Standley in the amount of \$13,885.63.

**No. 2012-16 GRUETTER (Ihrig) - \$500**

Sandra Ihrig engaged Gruetter in August 2011 in connection with a potential medical malpractice claim. Gruetter's office asked her to sign medical releases, send names of her medical providers, and pay \$500 for a "medical review" or evaluation of her claim. Ihrig did as instructed.

Ihrig communicated with Gruetter's office over the next couple of months, principally to provide them with some of her recent medical records as well as other information she had researched about the doctor who treated her and the drugs she was given. In November 2011, Gruetter's office sent Ihrig copies of records it had obtained, but she heard no more from them.

The file does not reflect that Gruetter ever reviewed Ihrig's records or any other aspect of her case. The committee concluded that Ihrig was entitled to an award of the entire \$500 she paid to Gruetter because the services she received were *de minimis* at best.

**No. 2012-21 GREUTTER (Meekins) - \$6,636.59**

Constance Meekins retained Gruetter in October 2009 to pursue a claim for injuries sustained in a fall. Gruetter assigned the matter to Joe Walsh. Suit was filed and her claim was settled in October 2011 for \$12,000. The funds were deposited into Gruetter's trust account on November 28, 2011.

On December 22, Walsh prepared a final accounting for Meekins. After deducting Gruetter's 1/3 fee and expenses of \$1363.41, there remained \$6,636.59 for distribution to Meekins. Despite several requests from Walsh, no funds were paid to Meekins.

The committee recommends an award to Meekins of \$6,636.59.

**No. 1012-32 GRUETTER (Lowery) - \$2823.17**

Kathleen Lowery hired Gruetter in August 2009 to pursue a claim for injuries resulting from laser skin treatments. The claim was submitted to arbitration before Mike McClinton; Lowery signed an arbitration agreement providing that she was responsible for ½ of the costs of mediation.

Through mediation, Lowery's claim was settled for \$50,000; the proceeds were received by Gruetter and deposited into his trust account. On August 23, 2011, Gruetter send Lowery a check for \$28,894.66 along with a "1<sup>st</sup> preliminary Accounting" showing that he was holding back \$1,323.17 for a medical lien and \$1,500 for "final costs." He promised a final accounting in October after all outstanding obligations had been resolved.

In late July, Gruetter's office had contacted the medical provider's claims administrator to ascertain if it would reduce the amount of its lien. In response, the administrator advised it no longer represented the provider and referred Gruetter's office to the new administrator. There is nothing in Gruetter's file to indicate that his staff made any effort to resolve the medical lien. (Lowery has tried to do so on her own, but apparently gets no response from the administrator or the provider.) Gruetter also never paid the arbitrator's fee of \$490 or any other "final costs."

The committee concluded that Lowery has suffered a loss of the \$2,823.17 withheld by Gruetter. They considered at some length whether the CSF should reduce Lowery's award by \$490 and pay the arbitrator directly to ensure he was compensated. However, after a thorough discussion including whether it was appropriate for the CSF to assume responsibility for payments to third parties, the committee recommended an award to Lowery of the entire sum, leaving the resolution of her obligation to Mr. McClintock to the two of them.

# MEMORANDUM

**TO: Board of Governors, Oregon State Bar**  
**FROM: Mike Haglund, Ethan Knight**  
**RE: Proposed Legal Job Opportunities Work Group**  
**DATE: June 18, 2012**

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One of the major challenges facing our profession is the lack of job opportunities for recent law school graduates during the last three years of the Great Recession. This memorandum summarizes the reasons that we jointly recommend the formation of a fast track BOG Task Force, tentatively named the Legal Job Opportunities Work Group.

During the last three years, approximately two-thirds of the graduates of U.S. law schools have been unable to find full time work in the profession. Law firms have dramatically reduced or completely eliminated their hiring in response to a significant reduction in the demand for legal work. Many firms have actually cut both lawyers and staff positions. As a result, the historic engine driving much of legal employment – law firms of various sizes – has been sputtering and many new admittees who are strongly committed to pursuing the profession have resorted to hanging out their own shingles as solo practitioners. These developments have significant consequences for the Oregon State Bar: greater needs for mentoring, CLE and professionalism opportunities; potential long-term loss of a significant share of those lawyers who passed the bar in 2009-12 to ongoing membership in the OSB; and the potential for a long-term negative view of the OSB by new admittees who see the organized bar as doing very little to address their significant needs.

Memo to Board of Governors,  
Oregon State Bar  
June 18, 2012  
Page 2

Mitzi, Ethan and I had a brainstorming session on this topic last month. The basic idea is to organize a stakeholder summit involving bar leaders, law students, law school deans and recent admittees and public or private sector individuals with relevant economics experience to examine what steps the organized bar could take to address the existing lack of legal jobs for recent law school graduates.

Washington has a new program that involves a partnership with that state's three schools doing the intake for a state-wide modest means program designed to match underserved client groups with lawyers willing to charge discounted rates, many of them recent grads. The Washington State Bar is funding three half-time positions at the law schools at an annual cost of slightly more than \$100,000. Whether the OSB wants to go that route when we already have skilled intake personnel working for our Lawyer Referral Service is an open question. However, to do something similar, we would need to expand out modest means program and provide training and support for those serving on the modest means panels.

Another idea involves approaching the law schools about establishing an evening class for all comers (students and new practitioners), staffed by a rotating corps of three to five experienced lawyers at each law school. The class could cover designated practice management topics each semester in the first 90 minutes and then open things up for a wide-ranging Q&A for the next 90 minutes. This would add a substantial ongoing resource for new lawyers that supplements the mandatory mentoring program.

Anecdotally, we know that there are legal job opportunities in smaller communities throughout Oregon. There may be a way to develop a system for matching those opportunities with interested new lawyers which serves both new and soon-to-retire practitioners.

This Task Force could also provide an entree for opening a dialog with the deans of the Oregon law schools regarding class size and the unique needs of a growing percentage of their student bodies entering solo or small firm practice after graduation.

We propose the establishment of a BOG task force that would recruit members over the next 60 days, hold a summit in the fall and then generate a report to the BOG with specific action item proposals for decision in late 2012 and implementation in 2013. The Task Force would include key leaders from the ONLD and MBA YLS, who view the legal job opportunity issue as one of bar's the top priorities.

**Oregon State Bar  
Board of Governors Meeting  
June 22, 2012  
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. Michael R. Blaskowsky – 841766

**Motion:** Ms. Billman presented information concerning the BR 8.1 reinstatement application of Mr. Blaskowsky. Ms. Billman moved, and Ms. Matsumonji seconded, to recommend to the Supreme Court that Mr. Blaskowsky's reinstatement application be approved. The motion passed.

2. Ann Highet – 902999

**Motion:** Mr. Spier presented information concerning the BR 8.1 reinstatement application of Ms. Highet. Mr. Spier moved, and Mr. Haglund seconded, to recommend to the Supreme Court that Ms. Highet's reinstatement application be approved subject to the provisions in the original stipulation for discipline. The motion passed.

3. Randall W. Rosa – 825006

**Motion:** Mr. Prestwich presented information concerning the BR 8.1 reinstatement application of Mr. Rosa. Mr. Prestwich moved, and Mr. Haglund seconded, to recommend to the Supreme Court that Mr. Rosa's reinstatement application be approved. The motion passed unanimously.

4. Michelle Lynn Shaffer – 981018

**Motion:** Mr. Wade presented information concerning the BR 8.1 reinstatement application of Ms. Shaffer. Mr. Wade moved, and Mr. Larson seconded, to temporarily reinstate Ms. Shaffer per BR 8.7(b). The motion passed unanimously.

5. Robert E. Sullivan – 983539

**Motion:** Mr. Sapiro presented information concerning the BR 8.1 reinstatement application of Mr. Sullivan. Mr. Kranovich moved, and Ms. Billman seconded, to

recommend to the Supreme Court that Mr. Sullivan's reinstatement application be approved. The motion passed unanimously.

B. Disciplinary Counsel's Report

As written.

**Oregon State Bar  
Board of Governors Meeting  
June 22, 2012  
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. The BOG received status reports on the non-action items.

B. Pending or Threatened Non-Disciplinary Litigation

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

C. Other Matters

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

**Oregon State Bar**  
**Special Open Meeting of the Board of Governors**  
**July 27, 2012**  
**Minutes**

The meeting was called to order by President Mitzi Naucler at 11:00 a.m. on July 27, 2012. The meeting adjourned at 1:45 p.m. Members present from the Board of Governors were Jenifer Billman, Barbara Dilaconi, Patrick Ehlers, Hunter Emerick, Ann Fisher, Michelle Garcia, Michael Haglund, Matthew Kehoe, Ethan Knight, Theresa Kohlhoff, Tom Kranovich, Steve Larson, Audrey Matsumonji, Maureen O'Connor, Travis Prestwich, Richard Spier and David Wade. Staff present were Sylvia Stevens, Helen Hirschbiel, Rod Wegener, Kay Pulju, Susan Grabe, Mariann Hyland, Judith Baker, Kateri Walsh, Catherine Petrecca and Camille Greene. Also present were Duane Bosworth, Davis Wright Tremaine; Caitlin Mitchel-Markley, Johnstone and Goodfellow; Therese Bottomly, *The Oregonian*; J. Brian Monihan, *Lake Oswego Review*; Norman Williams, OLF President; Charlie Williamson, OLF Past-President; and Howard Arnett, OLF President-elect.

**1. Centralized Legal Notice System**

Representing Oregon newspapers (ONPA), Mr. Monihan submitted a handout from State Representative Matt Wand, spoke in opposition to the bar's proposal, and answered questions regarding revenue from legal notices. Ms. Bottomly expanded on the subject by presenting the barriers to the internet for many older Oregonians. She also pointed out that all published legal notices have to be simultaneously submitted for posting on the ONPA web site. Mr. Bosworth presented feedback from journalism professor Tim Gleason on the OLF proposal. Mr. Williams provided the board with the Oregon Law Foundation's (OLF's) revised business plan for the Centralized Legal Notice System. Mr. Arnett spoke in favor of the proposal's ability to fund legal aid. **[Exhibit A]**

Ms. Naucler opened the floor to a vigorous and broad-ranging discussion. Issues discussed included how well we can gauge the likelihood of success, the political consequences of taking on the newspapers, the need for and cost of outside lobbying help, the possibility that the legislature could take the proposal and direct the funding elsewhere. Board members expressed concern over the potential loss of newspaper jobs, risking bar funds on a lobbyist if the legislature rejects the proposal, the lack of internet access in rural areas.

Other points made were that a fight with the newspapers in the legislature could possibly hurt the bar's credibility in Salem, the wisdom of spending member fees on such a risky venture, and, regardless of the merits, whether the bar is the appropriate agency to administer this system. Board members inquired whether there was a way to work collaboratively with the newspapers on what is an inevitable change, and whether other interested groups that would benefit from a centralized system (counties, cities, realtors, bankers and schools) are supportive.

**Motion:** Mr. Haglund moved, Mr. Kehoe seconded, to remove the proposal from the OSB legislative package. The board voted 11-6 to accept the motion. Ms. Naucler abstained.

No: Ehlers, Wade, Fisher, Kohlhoff, O'Connor, and Knight.

Yes: Haglund, Prestwich, Garcia, Kehoe, Spier, Larson, Dilaconi, Billman, Emerick, Kranovich, and Matsumonji.

Motion: Mr. Wade, Mr. Ehlers seconded, to recommend this to the HOD as a board resolution.

Motion: Mr. Haglund moved, Mr. Knight seconded, to table Mr. Wade's motion. The board voted 10-7 to accept the motion to table the previous motion. Ms. Naucler abstained.

Yes: Haglund, Knight, Kehoe, Prestwich, Garcia, Kehoe, Spier, Larson, Emerick and Matsumonji.

No: O'Connor, Dilaconi, Billman, Wade, Kranovich, Fisher, and Ehlers.

## **2. 2012 ABA HOD Agenda**

ABA HOD Delegate, Marilyn Harbur, presented the ABA HOD Agenda and facilitated discussion on ABA HOD Resolution 10A. Requests for positions for and against the resolution were presented. The board had previously voted to support the resolution and continued to recommend that the Oregon delegates vote to support it, too.

**OREGON STATE BAR**  
**Board of Governors Agenda**

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**Meeting Date:** July 27, 2012  
**Memo Date:** July 19, 2012  
**From:** Oregon Law Foundation  
**Re:** Centralized Legal Notice System

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**Action Recommended**

Approve putting the Centralized Legal Notice System on the OSB's legislative agenda which if successful will allow the Oregon State Bar to create a website at which all legal notices required under state law would be made available to the public, the net revenue of which would be allocated to the Oregon Law Foundation (OLF) for distribution to organizations that provide legal services to persons of lesser means.

**Background**

**Proposal**

The proposal is to permit public entities and individuals to publish required legal notices on an online centralized notification system created and maintained by the OSB and permit the bar to dedicate any net revenue from such a service to the Oregon Law Foundation for the purpose of funding legal aid programs in Oregon. This proposal addresses two issues.

First, required legal notices must be published in printed newspapers. This is both extremely expensive for government entities and individuals required to publish notice and is less effective than in past years since newspapers do not have the circulation they once did and an ever increasing number of Oregonians instead choose to seek information online. This means that newspaper publication – while extremely expensive --does a less effective job of providing meaningful notice to lawyers and the public than would a centralized online legal notice system. Admittedly the Oregon Newspaper Publishers Association manages an online legal notice system that reposts legal notices that have been published in papers statewide. However ORS Chapter 193 currently does not permit publication on the Internet alone. This means that Oregonians must pay for physical newspaper publication, even if Internet notification would provide adequate notice.

Second, deep cuts to legal aid are destroying the core service delivery system at a time when the need for services is on the rise. Cuts have been made in both federal and state funding, and there have been reductions in filing fee and IOLTA revenue (\$1 million annually) as well. At the current time, additional state funding is not available, meaning that creative long-term solutions for legal aid funding must be sought.

**Prior Business Plan**

The OLF was asked to submit a business plan giving an overview of the start-up and ongoing operating cost of the Centralized Legal Notice System (CLNS). The OLF submitted a business

plan to the BOG on May 26 that included data gleaned from legal notice postings, a project estimate for building and maintaining the CLNS and a summary budget of the system.

There was a concern raised that the revenue generated from the business plan was inaccurate for two reasons. First, it was based on an elevated number of postings given the increased number of foreclosures and second, the staffing cost for maintaining the CLNS was too low and should be increased to accommodate the customer service needs of those entities required to post notices.

### **Revised Business Plan**

Attached is the CLNS Revised Business Plan. It contains the following documents:

- Centralized Legal Notice System Projected Budget from startup through year 6. This budget reflects three changes from the budget submitted before. The first is a decrease in the number of annual postings from 40,900 to 26,489 based on a reduction of foreclosure numbers. Second is an increase in the amount each posting will cost from \$80 to \$130 (the current average cost to meet the statutory requirement for notices in the newspapers is \$783.16). Third, staff costs have been increased by two additional staff positions.
- Summary Budget of the system summarizing the external and staff cost to both build the website and the ongoing maintenance cost of the system. Two additional full-time staff positions have been added for a total of 3.25 FTE.
- Oregon Legal Notices - Project Estimate which outlines the project description for developing and managing the elements of the CLNS. There are no changes to this document from what was previously submitted.
- March/April 2012 Statistical Summary which summarizes the calculations made to determine the number of notices for budgeting purposes.

### **Conclusion**

The CLNS business plan was revised by reducing the number of annual postings by 35% and tripling staffing. The impact is that the cost to post notices can be reduced by over 80%, saving government entities and private parties a substantial amount of money and still generate enough revenue to cover the cost of maintaining the CLNS and provide a committed revenue source for legal aid.

## Centralized Legal Notice System Projected Budget

	Startup 1st year	2nd year	3rd year	4th year	5th year	6th year
<b>Revenue</b>						
26489 ads @ \$130 (a)	\$0	\$3,443,570	\$3,443,570	\$3,443,570	\$3,443,570	\$3,443,570
<b>Expenses</b>						
Startup costs (b)						
Internal (c)	97,620					
External/Out of Pocket	91,500					
Marketing	45,000					
Annual Maintenance						
External Support Costs		55,000	57,800	60,700	63,700	66,900
New personnel		185,500	194,800	204,500	214,700	225,400
Existing personnel (management) (d)		27,000	28,400	29,800	31,300	32,900
Administrative Costs		60,188	63,200	66,400	69,700	73,200
Total Expenses	234,120	327,688	344,200	361,400	379,400	398,400
Gross Revenue	(234,120)	3,115,883	3,099,370	3,082,170	3,064,170	3,045,170
Payback OSB Startup Costs		(234,120)				
Legal Aid Funding		(2,800,000)	(3,000,000)	(3,000,000)	(3,000,000)	(3,000,000)
<b>Net Revenue</b>	<b>(\$234,120)</b>	<b>\$81,763</b>	<b>\$99,370</b>	<b>\$82,170</b>	<b>\$64,170</b>	<b>\$45,170</b>
<b>Accumulated Reserve</b>	<b>(\$234,120)</b>	<b>\$81,763</b>	<b>\$181,133</b>	<b>\$263,303</b>	<b>\$327,473</b>	<b>\$372,643</b>

### Notes

(a) Number of annual postings reduced from 40,900 to 26,489 due to reducing number of foreclosure postings. Cost of posting increased from \$80 to \$130. Current average cost to post a notice is \$783.16.

(b) Startup costs advanced by OSB

(c) Existing OSB IDT staff and contractors; may include using more outside contractors; full costs allocated as this project delays OSB projects

(d) Existing OSB manager absorbing this role

# Summary Budget

**\*\*This estimate does not cover potential Marketing costs\*\***

Project Budget					
Internal Costs		Internal Costs		External Costs	
L1	\$ 24.00	L3	\$ 69.00	WAM	\$ 85.00
L2	\$ 41.00	Mixed	\$ 45.00	WEB	\$ 95.00
<b>Internal Cost</b>					
Resource	Tasks	Hours	Cost		
BSA & Project Manager	Manage Project, Requirements Support	520	\$	21,320.00	
Stake Holder - OSB Management	Provide Guidance and Decision Making	500	\$	34,500.00	
Stake Holder - OSB Finance	Provide Guidance and Decision Making	250	\$	17,250.00	
Project Sponsor - OLF Director	Provide Guidance and Decision Making	130	\$	8,970.00	
Developer	Assist with OSB Application Integration	100	\$	4,100.00	
System/Network Administrator	Support Solution Design	40	\$	1,640.00	
OSB Support Staff (multiple resources)	User Acceptance Testing	80	\$	3,280.00	
OSB Support Staff (multiple resources)	Documentation, Training, Communication	160	\$	6,560.00	
		<b>Total Hours</b>	<b>1780</b>		
		<b>Total Cost</b>	<b>\$</b>	<b>97,620.00</b>	
<b>External Cost</b>					
Resource or Software	Hours	Cost			
Web Site Development Costs		\$	52,000.00		
Great Plains Business Ready Licenses for eCommerce		\$	15,000.00		
Great Plains Consultant	100	\$	20,000.00		
Staff Computer Equipment		\$	4,500.00		
		<b>Total Hours</b>	<b>100</b>		
		<b>Total Cost</b>	<b>\$</b>	<b>91,500.00</b>	
				<b>Total Project Cost</b>	<b>\$ 189,120.00</b>
<b>Post Production Support Costs - YEAR 1</b>					
Description on Cost	Cost				
Enterprise Software & Database Monthly Hosting Fee - \$2700 a month	\$ 32,400.00				
Search Engine Optimization - \$679 a month	\$ 8,148.00				
Maintenance & Support Plan - \$250 a month	\$ 3,000.00				
IBM Twice Daily Web Site Backups	Included				
Hardware (Server/Drives/OS)	Included				
1 Hour Per Month Of Custom Software Programming or Requested System Updates	Included				
Software Support Maintenance - Anticipated Enhancements - a year (50 hours x \$95)	\$ 4,750.00				
Digital Signature -\$199 a month	\$ 2,388.00				
Great Plains Business Ready Licenses Maintenance Cost	\$ 4,350.00				
		<b>Total Support Costs</b>	<b>\$</b>	<b>55,036.00</b>	
<b>Staff Increase a Year</b>					
Description on Cost	Cost				
FTE 3.0 at grade 10 so \$22.00 x .35 (benefits) = \$29.70 per hour	\$ 185,328.00				
FTE .25 to manage so \$38.00 x .35 (benefits) = \$51.30 per hour	\$ 26,676.00				
FTE .5 to for Finance staff at grade 8 so \$20 x .35 (benefits) = \$27.00	\$ 28,080.00				
		<b>Total Staff Costs</b>	<b>\$</b>	<b>240,084.00</b>	
				<b>Total Yearly Maintenance Co</b>	<b>\$ 295,120.00</b>

# Oregon Legal Notices - Project Estimate

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Project Name: Oregon Legal Notices Website	Submitted for Review:	Date Approved:
Project Manager:	Project Sponsor(s): Judith Baker	Project Stakeholder(s):

## Executive Summary

The goal of the Website is to facilitate publishing and access of all statutorily required legal notices, making them readily available and searchable to the public while meeting disclosure requirements, thereby creating a unified state system for all legal notices in Oregon. Revenues from posting and a subscription-based alert feature will ultimately raise funds for the Oregon Law Foundation. This project is contingent on Oregon Legislation changes to legal notice laws, so the earliest we would know if this is approved is June 2013.

## Project Description

### Development Needs

- Create web components to support the posting, viewing and reporting of legal notices on an online web portal.
- Interface/Functionality to search and display legal notices
- Interface/Functionality to create and post notices with ability to pay online
- Interface/Functionality to subscribe to notices with ability to pay online
- Interface to support OSB administrative functions of the site such as content management and reporting
- Integration with OSB Financial System
- User Account Administration – secure self-service method to create and maintain login credentials to create & subscribe to notices
- Notification functionality for internal and external process workflows such as an affidavit used to prove legal notice.

### Additional Features & Functionality

- Digital Signature integration
- Search Engine Optimization

## Project Deliverables

### Proposal from Legal Interactive



Oregon\_State\_Bar\_  
Open\_Records\_Propo

- Complete public notice management of posting, viewing and reporting
- Powerful Apache Solr that powers many of the largest sites online that includes rich document searches, content recommendations, hit highlighting, database integration and index replication
- Fully integrated, PCI e-commerce system that allows users to pay to post notices
- Membership subscription feature that allows members to subscribe to receive notices for a fee and manage account with login credentials
- Complete Content Management system that permits OSB staff to add, delete, and edit all content
- Complete Integration with the OSB financial system
- Workflow system allows you to tailor permissions and customize workflow to your organizational needs
- Digital signature integration for all requested areas of the site (Rightsignature subscription required)
- System can handle over a million postings per year by thousands of users.
- Accessibility and Section 508 Compliance. Site meets ADA guidelines.
- Upgrades and new features are included with every subscription.
- Government-level security requirements that include Passwords that comply with Level 2 of NIST'S
- Electronic Authentication Guidelines, https is pre-configured, and CAPTCHA comes standard on all forms
- KPI Dashboard reporting system provides real-time metrics for your data.

## Example Tasks to Manage Program

Example work required by new program staff may include:

- Ensure program is meeting legal requirements through defined business rules implemented by the Oregon State Bar.
- Enhance the use and adoption of the product through means of communication to the potential audience of the website.

- Act as liaison with external organizations as needed to provide expertise surrounding public notices.
- Define training and education on the processes surrounding the use the tool both internal and external users.
- Assist in customer service related tasks as they arise.
- Create and manage reports as needed for management and finance.
- Troubleshoot website and process issues and bring attention to issues as they arise.
- Manage non notice website content as needed.
- Review notification and confirmation templates as needed to provide corrections, removals and/or additions.
- Potential audit or review of posted legal notices.

Example finance staff work:

- Account Management for institutions who create multiple postings a month, rather than having to provide a credit card for every post.
- Provide assistance with exceptions that result from the large volume of transactions.
- Support the additional eCommerce feature set in Great Plains.
- Support the new OSB staff that will manage the program overall.

## **Project Timeline - 1 Year**

Initiation & Planning stages:

- Define detailed business requirements by translating legislation into understandable business rules for the overall program and software to operate
- Define marketing and communication plan

Execution stages:

- Execution of web development activities
- Execution of marketing and communication activities
- Staff training and procedural implementation activities
- User Acceptance Testing
- Web site implementation activities
- Website and system go-live

# March/April 2012 Statistical Summary

Total # of First Runs		6751
Total # of First and Subsequent Runs		15020
Total Dollars Spent on Notices	\$	5,881,543.30
Average cost to run notice one time	\$	391.58
Majority of notices are run at least twice		
Average cost of running a notice	\$	783.16

<b>Calculation to determine number of notices for budgeting puposes</b>	
Non Foreclosure 1st Runs	3636
Foreclosure 1st Runs	3115
Total Number of 1st runs	6751
Estimate of future 1st runs (w/o Foreclosure increase)	
Non Foreclosure Plus 25% of Foreclosure	4415
Yearly 1st runs (4415 times 6)	26489

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# MINUTES

## BOG Access to Justice Committee

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**Meeting Date:** July 27, 2012  
**Location:** Oregon State Bar Center  
**Chair:** Maureen O'Connor  
**Vice-Chair:** Ann Fisher  
**Members Present:** Tom Kranovich, Ann Fisher, Jenifer Billman, Audrey Matsumonji, Patrick Ehlers, Mitzi Naucler  
**Members Absent:** Maureen O'Connor  
**Staff Members:** Judith Baker, Cathy Petrecca, Kay Pulju,

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### ACTION ITEMS

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1. **Topic:** Approved May 24, 2012 meeting minutes.
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### INFORMATION ITEMS

2. **Topic:** Update from Staff regarding Presentation from Judge Waller and Judge McKnight

Cathy Petrecca showed the Committee what family law information was available on the OSB and LASO websites, along with some examples of other states which have interactive forms. Kay Pulju informed the Committee of the work of the TIFLES Task Force (family law forms and services).

The Committee members discussed pulling together a work group consisting of members of the Pro Bono Committee, the Family Law Section and the ONLD to help update the family law forms, update the OSB website and begin the process of getting interactive forms. The Committee discussed the possibility of a pilot program in Multnomah County. Kay informed the Committee about the current plans to include fillable forms in e-court development. The Committee reached consensus that there should be a strategy to talk to the Chief Justice about the importance of requiring courts to accept uniform forms, and that the OSB should look into the process of developing interactive forms.

OSB President Mitzi Naucler joined the meeting and spoke to the Committee about TIFLES and about the idea of using the law libraries differently, essentially the approach of Judges Waller and McKnight. Mitzi will speak with the Chief Justice about these ideas.

The ATJ Committee asked staff to put together more information on the issue and frame an approach for the Committee to take, including speaking with the software vendors, and providing that information to Mitzi who will speak with the Chief Justice about moving forward.

**Minutes**  
**Budget & Finance Committee**

June 22, 2012  
Ashland Springs Hotel  
Ashland, Oregon

**Present - Committee Members:** Mike Haglund, chair; Steve Larson, vice-chair; Hunter Emerick; Theresa Kohlhoff; David Wade. **Other BOG Members:** Mitzi Naucler. **Staff:** Sylvia Stevens; Susan Grabe; Helen Hirschbiel; Mariann Hyland; Rod Wegener.

**1. Minutes – May 24, 2012 Committee Meeting**

The minutes of the May 24, 2012 meeting were approved.

**2. Investment Policy and Portfolio**

Mr. Rick Cloutier of Washington Trust Bank spoke to the committee via conference call and explained the risk and reward of the high-yield bond asset class. Mr. Cloutier further suggested the bar's policy include the emerging market bond, and the commodity fund. These funds increase risk, but also add diversification, reduce volatility, and increase yield. He added that the general targets of the high yield asset class is 5% of the fixed income portfolio and the emerging market bond fund is about 9-10% of fixed income assets. Mr. Cloutier also described three new asset classes that the bank is considering in future portfolios of its clients.

The committee recommended to amend the bar's investment policy to include the asset classes of high-yield bond funds, the emerging market bond fund, and the commodity fund.

**3. Audit Report of OSB 2010 & 2011 Financial Statements**

Nancy Young, the lead auditor with Moss Adams, spoke with the committee via conference call. She initially stated the bar received an unqualified audit and responded to questions from the committee.

The letter to the board referred to "other internal control matters that we (Moss Adams) have reported to management." Mr. Wegener reported there were seven items – three of which were separation of duties which are the result of the smaller accounting staff, one on timesheet approval already addressed by management, two were lack of a review of reconciliations, and one was on the investment policy oversight addressed at the last committee meeting.

Mr. Wegener pointed out that the "Change in Net Assets" for 2010-2011 was a negative \$402,391, but included in that bottom line was \$1.6 million in the non-cash expense of depreciation.

**4. Financial Report – May 31, 2012**

Although the financial report after five months overall is positive, Mr. Wegener referred the committee to the significant drop-off in revenue in bar exam applications. This amount concurs with the 16% decline in applications reported in the Admissions Director's report.

**5. Update - CLE Seminars Department Business Plan**

This matter was not discussed by the committee since Karen Lee, the CLE Seminars Department Manager was presenting to the whole board later in the day.

**6. Update – Centralized Public Notice System Projected Budget**

Committee Chair Haglund stated his opinion on the bar taking on the centralized system in light of the bar engaging an outside legislative consultant and incurring a substantial cost that may not be recovered. The matter is on the board meeting agenda for further discussion, so the committee took no action with the expectation that formal action will be taken at a special board meeting in July.

**7. Memo – CSF Assessment Recommendation**

The committee discussed Ms. Stevens' memo to the CSF Committee and the impact of the large claims on the fund balance. Ms. Stevens reported the claims against one attorney will be by far the largest against the fund. Ms. Stevens will attend the July 14 CSF Committee meeting with the expectation that the committee will recommend ideas to the board for funding the claims. The Budget & Finance Committee also asked the CSF Committee to consider amending the policy to establish a cap that can be paid for the claims against any one attorney.

**8. Preparing for the 2013 Budget**

Due to time constraints, this matter was not discussed.

**9. Next Committee meeting**

The next meeting is scheduled for July 27, 2012 at the bar center in Tigard.

**Minutes**  
**Budget & Finance Committee**  
July 27, 2012  
Oregon State Bar Center  
Tigard, Oregon

**Present - Committee Members:** Mike Haglund, chair; Steve Larson, vice-chair; Hunter Emerick; Michelle Garcia (on phone); Ethan Knight (on phone); Theresa Kohlhoff; David Wade.  
**Other BOG Members:** Mitzi Naucler; Patrick Ehlers. **Staff:** Sylvia Stevens; Judith Baker; Susan Grabe; Helen Hierschbiel; Rod Wegener.

**1. Minutes – June 22, 2012 Committee Meeting**

The minutes of the June 22, 2012 meeting were approved.

**2. Investment Policy Revision and Portfolio Report**

The Committee approved the revisions to the investment policy as presented on the agenda exhibit (attached). The Committee's recommendation will be included on the next Board of Governors agenda for approval by the board.

**3. Revision of Centralized Public Notice System Projected Budget**

The Committee briefly discussed the revised budget as the Committee acknowledged the revised plan and budget will be discussed and acted upon at the special board meeting later in the day.

**4. 2013 Executive Summary Budget Report**

Mr. Wegener walked the Committee through the key issues in the 2013 Executive Summary Budget (listed in section 8 of the report). He emphasized this is only a preliminary budget and far from the final budget. This budget showed a net expense of \$455,000 although the report was presented as a net revenue of \$45,000 with an allocation of reserves covering the deficit. Mr. Wegener stated a transfer of \$500,000 from reserves is excessive, so the deficit must be reduced. The Committee discussed the high cost of PERS included in this draft of the budget and Mr. Wegener reported the final rate is expected to be known in September.

The summary budget will be on the agenda of the next Board of Governors meeting so the board understands the challenges for balancing the 2013 budget.

**5. Financial Report – June 30, 2012**

Following the mid-year trends of the past few years, Mr. Wegener projected the bar's bottom line for 2012 to be between breakeven and a small net expense. He stated the good news with that projection is the allocation of the reserves of \$200,000 included in the budget would not be needed.

Referring to the chart of the reserve fund requirements and the funds available at June 30, Mr. Wegener indicated the amount in excess of the reserve requirements is \$727,000. However, he estimated that excess to be about \$500,000 at year end.

**6. Next Committee meeting**

The next meeting is scheduled for August 24, 2012 at the bar center in Tigard.

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# MINUTES

## BOG Member Services Committee

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**Meeting Date:** June 22, 2012  
**Location:** Ashland Springs Hotel, Ashland  
**Chair:** Matt Kehoe  
**Vice-Chair:** Tom Kranovich  
**Members Present:** Tom Kranovich, Audrey Matsumonji, Travis Prestwich, Richard Spier  
**Staff Members:** Kay Pulju

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### ACTION ITEMS

1. **Topic:** Minutes of the May meeting were approved as offered.
2. **Topic: Lawyer Referral Service.** With implementation of the new percentage fee system scheduled for July 1, the Public Service Advisory Committee and bar staff are turning their attention to further consideration of access to services in certain low-fee/low-income areas of law. These areas include Workers Compensation, SSI/SSD and veterans' benefits. Recommendations will be brought to this committee for discussion in the fall.
3. **Topic: Lawyers for Veterans.** This year-long steering committee has been active in coordinating and improving the bar's efforts to support the legal needs of Oregon's veterans. Chris Kent, chair, will be invited to report at a future committee or full board meeting.
4. **Topic: OSB Awards.** Nominations for the 2012 awards are due July 16. Nomination packets will be provided to this committee for the July 27 meeting. Recommendations must be submitted to the full board at its August meeting.
5. **Topic: OSB Program Review.** Discussion on this item was deferred to the next meeting.

### INFORMATION ITEMS

6. **Topic: Public Notices.** The committee discussed member-service aspects of the current discussion on centralized legal notices.

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# MINUTES

## BOG Member Services Committee

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**Meeting Date:** July 27, 2012  
**Location:** Oregon State Bar, Tigard  
**Chair:** Matt Kehoe  
**Vice-Chair:** Tom Kranovich  
**Members Present:** Matt Kehoe, Tom Kranovich, Barbara DiIaconi, Ann Fisher, Travis Prestwich (by phone), Richard Spier  
**Guests Present:** Jenifer Billman  
**Staff Members:** Danielle Edwards, Kay Pulju

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### ACTION ITEMS

- 1. Topic:** Minutes of the June meeting were approved as offered.
- 2. Topic:** **2012 OSB Awards.** The committee discussed all nominations received, including carryover from prior years and BOG nominations. The committee will recommend three recipients for Member Service, two for Public Service, two for Affirmative Action and one each for the other awards. Committee recommendations will be presented to the full BOG in August.

### INFORMATION ITEMS

- 3. Topic:** **OSB Program Review.** A general discussion touched on the following ideas and concerns: the OSB has experienced “mission creep” and needs to refocus; new ideas are stalled by budget concerns without a big-picture review (including the option of funding by cutting elsewhere); could the OSB consider a tiered system for membership fees?

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# MINUTES

## BOG Policy and Governance Committee

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**Meeting Date:** July 27, 2012  
**Location:** OSB Center  
**Members Present:** Ann Fisher (Chair), Barbara Dilaconi, Jenifer Billman, Matt Kehoe, Travis Prestwich, Richard Spier and David Wade (Vice-Chair)  
**Guests and Staff:** Mitzi Naucler, Theresa Kohlhoff, Sylvia Stevens, Helen Hierschbiel, Mariann Hyland, Danielle Edwards

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### ACTION ITEMS

- |  |
|--|
| <p><b>1. Approve Minutes of May 24, 2012 meeting.</b> On motion of Mr. Wade, seconded by Mr. Kehoe, the minutes of the May 24, 2012 meeting were approved unanimously.</p>   |
| <p><b>2. Section Bylaw Changes.</b> On motion of Ms. Dilaconi, seconded by Mr. Wade, the committee voted unanimously to refer the housekeeping bylaw changes to the BOG in August.</p>   |
| <p><b>3. HOD Review.</b> Ms. Fisher opened the discussion by suggesting that the HOD is slanted to the metro area because that is where so many of the section chairs are located. Mr. Prestwich commented that the metro slant is further exacerbated because many local bar leaders don't participate and many are unaware that they are ex officio delegates to the HOD. Additionally, some delegates have questioned the importance or significance of what they do. Ms. Stevens pointed out that Oregon is the only Western State with a HOD; while the others rely principally on the board to make governance decisions, most also have some kind of referendum process to involve members in certain decisions. Possibilities discussed included eliminating the HOD (with or without substituting electronic voting); eliminating section chairs as ex officio members; and having a "caucus" meeting of the entire HOD to generate ideas for resolutions. After discussion, on motion of Ms. Billman, seconded by Mr. Wade, the committee voted unanimously to recommend to the BOG that the delegates be surveyed at the November 2012 HOD meeting for their view on the continuing relevance of the HOD and any structural changes to make it more fairly representative and relevant.</p> |
| <p><b>4. Judicial Selection/Judicial Professionalism.</b> The discussion began with several committee members' observation that there seems to be an increase in unprofessional behavior by judges, which suggests that better education and selection are in order. Two separate issues were identified: the BOG's role in appellate selection and judicial demeanor. After discussion, on motion by Ms. Billman, seconded by Ms. Dilaconi, the committee voted unanimously recommend that the BOG return to its prior appellate selection process of ranking the recommendations to the governor, or that the BOG decline to make any recommendations. After additional discussion, on motion of Mr. Wade, seconded by Mr. Spier, the committee voted unanimously to recommend (1) that the BOG develop a system for evaluation of sitting municipal, state and federal judges and (2) that the MCLE rules be amended to require that judges obtain 6 hours in each reporting period on the topics of "judicial ethics and demeanor."</p>  |
| <p><b>5. Discipline System Review.</b> This topic was deferred until the August meeting.</p>   |

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# MINUTES

## BOG Public Affairs Committee

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**Meeting Date:** June 22, 2012  
**Location:** Ashland Springs Hotel, Ashland, OR  
**Chair:** Steve Larson  
**Vice-Chair:** Hunter Emerick,  
**Members Present:** Patrick Ehlers (by ph), Tom Kranovich, Mike Haglund, Audrey Matsumonji  
**Members absent:** Maureen O'Connor  
**Staff Members:** Susan Grabe

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### ACTION ITEMS

**Minutes.** The minutes for the May 24, 2012 meeting were formally approved.

### INFORMATION ITEMS

**Judicial Selection.** Mike Haglund updated the committee on the OPB story regarding judicial performance, transparency and e-filing. He also informed the committee of his involvement on the Oregon Law Commission workgroup on Appellate Selection. The workgroup was formed at the behest of former Chief Justice De Muniz to explore alternative judicial selection methods in response to concerns about the potential impact of money from outside the state on the election process in Oregon.

**Law Improvement Proposals.** The bar's package of law improvement proposals has been sent down to legislative counsel's office for bill drafting. Bill drafts should be available for bar group review in late July, early August. Judiciary Committee bills are expected to be ready for the September legislative days.

**Court Funding Coalition.** Steve Larson reported that the MBA was interested in continued involvement in the court funding coalition and had discussed various approaches at its retreat in June. The bar will continue to work with the leadership of the MBA to further this effort.

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# MINUTES

## BOG Public Affairs Committee

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**Meeting Date:** July 27, 2012  
**Location:** Oregon State Bar  
**Chair:** Steve Larson  
**Vice-Chair:** Hunter Emerick,  
**Members Present:** Steve Larson, Hunter Emerick, Michael Haglund, Tom Kranovich, Patrick Ehlers, Audrey Matsumonji (by ph)  
**Members absent:** Maureen O'Connor  
**Staff Members:** Susan Grabe

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### ACTION ITEMS

**Minutes.** The minutes for the June 22, 2012 meeting were formally approved.

**Accept Report on Findings of the OSB Work Group on Citations to Appear.** The committee accepted the report for the Citations workgroup and discussed whether it should be included in the HOD materials for the November meeting. Ultimately, the committee decided the best way to share the workgroup report was to send it to the District Attorney's Association with 1 page summary and suggest these are "best practices" developed as a result of the task force's work and ask them to share it with District attorney offices around the state.

### INFORMATION ITEMS

**National Center for State Courts.** The National Center for State Courts is interested in Oregon participating in a pilot project regarding the impact of court budget reductions on the State. Four or so other states have agreed to participate along with Washington and Idaho. The idea has also been presented to the Chief Justice for consideration. The committee agreed that it was a good idea to participate if possible.

**2013 Law Improvement Proposals.** The committee discussed the current status of the proposals and asked for a more extensive update for the August meeting.

**Law Library Task Force.** Multnomah County is exploring alternative ways to provide library services and help pro se litigants. Additional meetings will be held to develop a set of recommendations for the county to consider.

CLAIM No.	NAME	ATTORNEY	CLAIM	PENDING	ASSIGNED TO
09-39	Pottle, John	Ryan, T. Michael	200.00	200.00	Franco
10-31	Johns, Chongnak and Frakn	Connall, Des	25,300.00	25,300.00	Wright
11-02	Risch, Stephen R	Connall, Des & Shann	57,000.00	57,000.00	Wright
11-05	Raske, Karen	Connall, Shannon	3,250.00	3,250.00	Wright
11-07	Stratton, Laurence Eugene	Connall, Shannon and	10,000.00	10,000.00	Wright
11-21	Roelle, Brian D	Connall, Des	23,000.00	23,000.00	Wright
12-08	Burk, Alice Elizabeth	Gruetter, Bryan	6,940.00	6,940.00	Wright
12-09	Mills, Carolyn Betty	Gruetter, Bryan	3,696.50	3,696.50	Wright
12-10	Schnee, Cynthia	Hammond, Paula	1,500.00	1,500.00	Brown
12-12	Riggs, Amy Lynn Evadora	Gruetter, Bryan	100,000.00	50,000.00	Cousineau
12-14	Ferguson, Norma	Gruetter, Bryan	7,171.67	7,171.67	Kekel
12-15	Gordon, Tae Mee	Gruetter, Bryan	66,504.14	50,000.00	Kekel
12-18	Strohm, Mary Jo	Gruetter, Bryan	16,319.22	16,319.22	Kekel
12-19	Ray, Michael	Gruetter, Bryan	100,000.00	50,000.00	Cousineau
12-22	Lyons, Angela	Gruetter, Bryan	4,530.99	4,530.99	Eggert
12-23	Leece, Gerald and Kimberly	Hammond, Paula	2,699.00	2,699.00	Brown
12-24	Steinbeck, Theodore C	Howlett, Bruce	950.00	950.00	Brown
12-25	McClain, Kathryn A	Gruetter, Bryan	23,767.96	23,767.96	Angus
12-26	Shore, Ryan	Gruetter, Bryan	18,390.34	18,390.34	Eggert
12-27	Boyer, Robbyn Lynn	Gruetter, Bryan	20,000.00	20,000.00	Eggert
12-29	Estate of Melvin Johnson	La Follett, Thomas	37,371.92	37,371.92	Monson
12-31	Roccasalva, Hope	Gruetter, Bryan	96,113.87	50,000.00	Franco
12-33	Sare, Anna	Gruetter, Bryan	20,000.00	20,000.00	Bennett
12-34	Carey, Carol	Gruetter, Bryan	1,613.00	1,613.00	Bennett
12-35	Martrinez, Deborah	Gruetter, Bryan	15,000.00	15,000.00	Franco
12-37	Andrach, Theodore Wells, Lauran	Gruetter, Bryan	4,800.00	4,800.00	Kekel
12-41	Krueger, Thomas (National Prep Produ	Nichols, Jacques B	4,000.00	4,000.00	Eggert
12-42	Alire, Allis Keeley	Gruetter, Bryan	33,500.00	33,500.00	Miller
12-43	Mosley, Amanda Nicole	Gruetter, Bryan	25,000.00	25,000.00	Angus
12-44	Cheney, Perry M	Jagger, James C	4,500.00	4,500.00	Monson
12-45	Saucedo, Erika Sayago	McBride, Jason	8,000.00	8,000.00	Calderon
12-46	Ramirez, Angel	Bertoni, Gary	15,000.00	15,000.00	Bennett
12-47	Bown, Candice Louise	McBride, Jason	3,000.00	3,000.00	Atwood
12-48	Behnumea, Eduardo and Guadalupe	McBride, Jason	5,000.00	5,000.00	Calderon
12-49	Pardo-Parra, Ramon	McBride, Jason	3,650.00	3,650.00	Angus
12-50	Laughlin, Kristi Lynn	Gruetter, Bryan	5,000.00	5,000.00	Atwood
12-51	Churchill, Caden	Gruetter, Bryan	19,000.00	19,000.00	Atwood
12-52	Gonzales, Juan Manual Ramos	McBride, Jason	3,500.00	3,500.00	Angus
12-53	Miller, Teresa Michelle	Dalton, Steven D	2,000.00	2,000.00	Miller
12-54	Lupton, Lela Mae	Gruetter, Bryan	20,500.00	20,500.00	Miller
12-55	Hernandez-Morales, Edgar	McBride, Jason	4,100.00	4,100.00	Cousineau
				<b>659,250.60</b>	

Funds available for claims and indirect costs allocation as of June 2012 **tal in CSF Account** **798,218.00**

**Fund Excess** **138,967.40**

**OREGON STATE BAR**  
**Client Security - 113**  
**For the Six Months Ending June 30, 2012**

Description	June 2012	YTD 2012	Budget 2012	% of Budget	June Prior Year	YTD Prior Year	Change v Pr Yr
<b>REVENUE</b>							
Interest	\$322	\$1,954	\$3,400	57.5%	\$241	\$1,545	26.5%
Judgments	3,271	348	6,000	5.8%	3,720	6,090	-94.3%
Membership Fees	495	218,385	226,200	96.5%	645	214,620	1.8%
<b>TOTAL REVENUE</b>	<b>4,089</b>	<b>220,688</b>	<b>235,600</b>	<b>93.7%</b>	<b>4,606</b>	<b>222,255</b>	<b>-0.7%</b>
<b>EXPENSES</b>							
<b>SALARIES &amp; BENEFITS</b>							
Employee Salaries - Regular	2,130	13,846	27,700	50.0%	2,745	16,875	-18.0%
Employee Taxes & Benefits - Reg	747	4,638	10,100	45.9%	936	5,230	-11.3%
<b>TOTAL SALARIES &amp; BENEFITS</b>	<b>2,877</b>	<b>18,484</b>	<b>37,800</b>	<b>48.9%</b>	<b>3,681</b>	<b>22,105</b>	<b>-16.4%</b>
<b>DIRECT PROGRAM</b>							
Claims		1,945	200,000	1.0%		86,315	-97.7%
Collection Fees		46	2,000	2.3%	1,714	1,714	-97.3%
Committees			250				
Pamphlet Production		11	150	7.6%			
Travel & Expense	1,510	1,510	1,400	107.8%			
<b>TOTAL DIRECT PROGRAM EXPENSE</b>	<b>1,510</b>	<b>3,512</b>	<b>203,800</b>	<b>1.7%</b>	<b>1,714</b>	<b>88,029</b>	<b>-96.0%</b>
<b>GENERAL &amp; ADMINISTRATIVE</b>							
Messenger & Delivery Services			100				
Office Supplies			150				
Photocopying			150				
Postage	27	244			12	111	120.2%
Professional Dues		200	200	100.0%			
Telephone	6	22	450	4.8%		21	5.5%
Training & Education		425	600	70.8%		200	112.5%
Staff Travel & Expense			2,116			469	-100.0%
<b>TOTAL G &amp; A</b>	<b>33</b>	<b>891</b>	<b>3,766</b>	<b>23.7%</b>	<b>12</b>	<b>801</b>	<b>11.3%</b>
<b>TOTAL EXPENSE</b>	<b>4,420</b>	<b>22,887</b>	<b>245,366</b>	<b>9.3%</b>	<b>5,407</b>	<b>110,935</b>	<b>-79.4%</b>
<b>NET REVENUE (EXPENSE)</b>	<b>(331)</b>	<b>197,800</b>	<b>(9,766)</b>		<b>(801)</b>	<b>111,320</b>	<b>77.7%</b>
Indirect Cost Allocation	1,119	6,714	13,425		1,079	6,474	3.7%
<b>NET REV (EXP) AFTER ICA</b>	<b>(1,450)</b>	<b>191,086</b>	<b>(23,191)</b>		<b>(1,880)</b>	<b>104,846</b>	<b>82.3%</b>
Fund Balance beginning of year		607,132					
<b>Ending Fund Balance</b>		<b>798,218</b>					
<b>Staff - FTE count</b>		<b>.35</b>	<b>.30</b>			<b>.35</b>	

**2012 JUDGMENTS COLLECTED**

<b>Date</b>	<b>Attorney</b>	<b>Payment Received</b>
1/30/2012	Kelley, Phil	360.00
2/17/2012	Shinn, Michael	25.00
3/7/2012	Kelley, Phil	360.00
3/19/2012	Shinn, Michael	15.00
4/3/2012	Kelley, Phil	360.00
5/7/2012	Kelley, Phil	360.00
5/29/2012	Shinn, Michael	25.00
6/4/2012	Kelley, Phil	720.00
7/6/2012	Anunsen, Roger	30.00
7/26/2012	Shinn, Michael	25.00
8/1/2012	Kelley, Phil	360.00
8/1/2012	Anunsen, Roger	20.00

**TOTAL**

**\$2,660.00**

**COPY FOR YOUR  
INFORMATION**



CLE SEMINARS

JUL 09 2012

RECEIVED

**CIRCUIT COURT OF OREGON**

Fifteenth Judicial District

**MICHAEL J. GILLESPIE**  
Judge

**Coos County Courthouse**  
Coquille, Oregon 97423  
396-3121

July 5, 2012

Karen D. Lee  
CLE Seminars Director  
Oregon State Bar  
PO Box 231935  
Tigard, OR 97281-1935

Dear Ms. Lee:

I received a courtesy form letter informing me that Coos Bay CLE replays at Dan Hinrich's office will no longer occur. That is no surprise as there is hardly ever enough sign-ups anyway. Thank you for the courtesy.

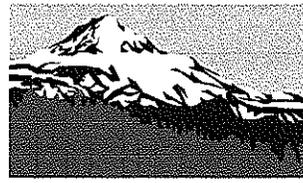
Because you appear to have some authority over the process, I wanted to write and tell you what a great CLE program process you have. I appreciate the opportunities it provides. As you know, we are a bit close to the end of the earth in Coos County when it comes to CLE presentations. The advent of internet accessible CLE sessions and replays are a godsend in this environment of busy schedules and declining budgets. Travel time and expense are real world issues like never before. Yet, from the desk in my office, I can be a full participant in many CLE sessions. That is a great thing!

I have experienced technical problems on internet replays and I can tell you that staff available on the phone was courteous and helpful. I have experienced issues with proper CLE credit and staff responding to my email was prompt, courteous and helpful. All in all, the system you are using affords far more flexibility for myself than the occasional video replay in Coos Bay.

I am writing to tell you that I think you folks in the CLE department at the bar offices are doing great work and I fully expect even greater things in the future. So often large organizations are far behind in technological services and yet you folks seem to be way ahead of the curve. You're doing a great job making everything work well for the membership, me included. I just wanted to say thanks.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael J. Gillespie", is written over the typed name and extends across the bottom of the page.



**OAJC**  
OREGON AREA  
JEWISH COMMITTEE

June 26, 2012

**Mail**  
7410 SW Oleson Rd.  
PMB #190  
Portland, OR 97223 - 9425  
**Phone**  
503-295-6761  
**Fax**  
503-497-9054  
**Online**  
info@OAJCOnline.org  
www.OAJCOnline.org

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John Moss

**Vice President**  
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Roy Lambert  
Lisa Lednicer  
Kenneth Lewis  
Howard Liebreich  
Susan Marcus  
Michelle Bombet Minch  
Alix Rosenbaum  
Merritt Yoelin

**Executive Director**  
Emily Georges Gottfried

Sylvia Stevens  
OSBAR  
PO Box 231935  
Tigard, OR 97281-1935

Dear Sylvia:

The Oregon Area Jewish Committee 2012 Judge Learned Hand Award Luncheon on June 13 was an outstanding event.

Henry Hewitt was a gracious and deserving honoree for the Lifetime Achievement Award. His history in the legal field and as a stellar community member is truly inspirational. Emerging Leadership honoree Julia Markley also showed us how worthy she is of special recognition.

Your support of the Oregon Area Jewish Committee in honor of Henry and Julia is greatly appreciated. Your gift of \$225.00, of which \$120.00 is the actual price of the luncheon and \$105.00 is tax deductible, helped us raise necessary funds to continue our important work. For your records the Oregon Area Jewish Committee's 501(c)3 tax identification number is 26-1871211.

The entire board of the Oregon Area Jewish Committee joins us in thanking you for being part of this very special occasion.

Sincerely,

Emily Georges Gottfried  
Executive Director

**RECEIVED**

JUL 02 2012

Oregon State Bar  
Executive Director



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July 9, 2012

Via U.S. Mail

American Bar Association  
House of Delegates  
740 15th Street, N.W.  
Washington, DC 20005

Re: House of Delegates Resolution 108

Honorable Delegates,

The Board of Governors of the Oregon State Bar, OGALLA: The LGBT Bar Association of Oregon, the Oregon Hispanic Bar Association, the Oregon Asian Pacific American Bar Association, Oregon Women Lawyers, and Basic Rights Oregon write regarding House of Delegates Resolution 108, passed this last year. While we support the American Bar Association in urging state and territorial bar associations to accommodate military *spouse* attorneys, we are concerned about the resolution's failure to address military *domestic partner* attorneys.

The House's failure to explicitly include military domestic partner attorneys is important and has real consequences. As we read the ABA resolution, "spouse" is not defined in any particular way. As such, when state and territorial bars adopt Resolution 108, those bars would likely be incorporating state definitions of "spouse," unless they adopt a rule that explicitly includes same-sex partners within its accommodations. Under most state laws, the term "spouse" does not include same-sex partners.

This failure to address the needs of domestic partners of military personnel is all the more frustrating in that the House of Delegates passed Resolution 108 in the same year in which Don't Ask, Don't Tell was finally eliminated, finally allowing LGBT military personnel to serve openly, including to acknowledge publicly their partners. Domestic partner attorneys of military personnel are as deserving of the accommodations of Resolution 108 as are spouse attorneys.

We ask the House of Delegates to revisit and revise Resolution 108 to extend its protections to military domestic partner attorneys. Because state bar associations are adopting

Resolution 108 already, this matter is urgent. As such, we ask the House of Delegates to take this matter up under emergency procedures and measures.

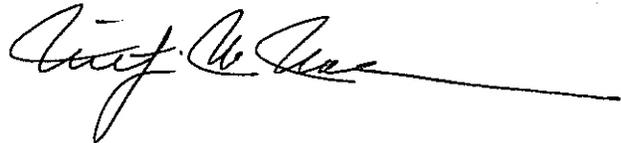
Respectfully,

**OGALLA: The LGBT Bar Association of Oregon**



Kevin Clonts  
Chair

**OREGON STATE BAR**



Mitzi Naucler  
President

**OREGON WOMEN LAWYERS**



Megan Livermore  
President

**OREGON ASIAN PACIFIC AMERICAN  
BAR ASSOCIATION**



Simon Whang  
President

**OREGON HISPANIC BAR  
ASSOCIATION**



Peter Ricoy  
President

**BASIC RIGHTS OREGON**



Jeana Frazzini  
Executive Director

**OREGON MINORITY LAWYERS ASSOCIATION**



Christopher Ling  
Co-Chair



cc: Office of the First Lady Michelle Obama  
Mark Johnson Roberts, Oregon ABA Delegate  
Editorial Staff, *ABA Journal*  
Editorial Staff, *Oregon State Bar Bulletin*  
Editorial Staff, *The Oregonian*  
Editorial Staff, *Stars and Stripes*

# International Survey of Attorney Licensing Fees

## Ranked By Mandatory Annual Fee and Attorney Population

Compiled July 1, 2012 by Office of Attorney Ethics of New Jersey

### A. UNITED STATES

Maximum Fee = \$3,992;

Average Fee = \$404;

Minimum Fee = \$145

Rank By Attorneys	Rank By Fees	Jurisdiction	Total Attorneys	Maximum Mandatory Annual Fee	Earmarked For Discipline~	Earmarked For Client Protection	Mandatory Malpractice Fee	Inactive Fee
26	1	Oregon*	18,800	\$3,992z		\$15	\$3,500	\$110
46	2	Alaska*	4,079	\$660		\$10		\$215
21	3	Tennessee	27,425	\$570w	\$140	\$10		
14	4	Connecticut	37,000	\$565yy		\$110		
41	5	New Hampshire*	7,122	\$520	\$195	\$15		\$200
5	6	Texas*	89,900	\$510y				\$60
40	7	Hawaii*	7,387	\$504	\$250			\$168
16	8	Washington*	34,798	\$480		\$30		\$200
23	9	Arizona*	21,914	\$460		\$30		\$265
22	10	Wisconsin*	24,276	\$460	\$155	\$20		\$195
33	11	Nevada*	10,790	\$450		\$25		\$125
25	12	Louisiana*	21,200	\$435	\$235			
43	13	Idaho*	5,652	\$425		\$20		\$135
42	14	Rhode Island*	7,110	\$425	\$200	\$25		\$50
34	15	Utah*	10,529	\$425	\$72	\$20		\$150
50	16	South Dakota*	3,000	\$415				\$100
2	17	California*	237,024	\$410	\$25	\$40		\$125
28	18	Alabama*	17,040	\$400		\$100		

Rank By Attorneys	Rank By Fees	Jurisdiction	Total Attorneys	Maximum Mandatory Annual Fee	Earmarked For Discipline~	Earmarked For Client Protection	Mandatory Malpractice Fee	Inactive Fee
38	19	New Mexico*	8,818	\$400	\$150	\$15		\$80
45	20	Montana*	4,628	\$385	\$125	\$20		\$150
51	21	North Dakota*	2,300	\$380	\$75			
19	22	North Carolina*	31,146	\$375		\$25		
36	23	Nebraska*	9,542	\$335	\$60			\$125
20	24	Minnesota	28,050	\$329	\$122	\$12		\$272
13	25	Michigan*	41,803	\$315	\$120	\$15		\$218
35	26	Mississippi*	10,522	\$310				\$50
18	27	Missouri*	32,000	\$305	\$101			\$50
48	28	Wyoming*+	3,274	\$305	\$34			\$188
9	29	Massachusetts	66,500	\$300				\$150
7	30	Illinois	87,943	\$289	\$200	\$25		\$105
29	31	Oklahoma*	16,766	\$275				
27	32	Kentucky*	17,244	\$270		\$7		
4	33	Florida*	91,000	\$265		\$25		\$175
32	34	South Carolina*	14,300	\$260	\$50	\$20		\$140
3	35	Dist. of Columbia*	97,194	\$255	\$80	\$3		\$130
12	36	Virginia*	42,475	\$250		\$25		\$113
37	37	West Virginia*	9,174	\$250				\$100
11	38	Georgia*	42,733	\$238v		\$100		\$119
44	39	Maine	5,175	\$232		\$20		\$96
17	40	Colorado	34,435	\$225		\$40		\$95
49	41	Vermont	3,263	\$210				\$85

Rank By Attorneys	Rank By Fees	Jurisdiction	Total Attorneys	Maximum Mandatory Annual Fee	Earmarked For Discipline~	Earmarked For Client Protection	Mandatory Malpractice Fee	Inactive Fee
8	42	Pennsylvania	73,597	\$200	\$135	\$40		\$70
6	43	New Jersey	89,673	\$199	\$135	\$50		
31	44	Kansas	14,592	\$195				\$65
1	45	New York	271,408	\$188	\$60	\$30		
30	46	Iowa	15,426	\$185	\$164			
39	47	Arkansas	8,700	\$175		\$17		\$88
10	48	Ohio	60,365	\$175				
47	49	Delaware	3,894	\$150	\$50	\$45		\$50
24	50	Indiana	21,500	\$145	\$78			\$72
15	51	Maryland	35,515	\$145	\$125	\$20		
<b>TOTAL LAWYERS</b>			1,879,683					

~ Several disciplinary system budgets specifically earmark in advance the dollar amount of the annual fee allocated to discipline.

\* Mandatory Bar State

+ Proposed future increase pending or approved

v Bar Facility Assessment for 5 years (\$75).

w State tax on attorney licenses \$400).

y State tax on attorney licenses (\$265).

yy State or local tax on attorney licenses (\$450).

z \$3,500 average mandatory malpractice fee. Average Nationwide Annual Fee excluding Oregon malpractice charge is **\$336**.

## **B. CANADA**

**Maximum Fee = \$2,270**

**Average Fee = \$1,729**

**Minimum Fee = \$1,326**

**(Not Including Mandatory Malpractice Fee)**

<b>Rank By Attorneys</b>	<b>Rank By Fees</b>	<b>Jurisdiction</b>	<b>Total Attorneys</b>	<b>Maximum Mandatory Annual Fee</b>	<b>Earmarked For Discipline~</b>	<b>Earmarked For Client Protection</b>	<b>Mandatory Malpractice Fee</b>	<b>Inactive Fee</b>
3	1	Alberta	10,500	\$2,270		\$570	\$3,124	\$189
4	2	Nova Scotia	2,805	\$1,850		\$95	\$1,319	\$250
2	3	British Columbia	10,564	\$1,840		\$1	\$1,750	\$300
6	4	Saskatchewan	1,587	\$1,615		\$145	\$866	\$150
5	5	Manitoba	2,003	\$1,475		\$225	\$575	\$105
1	6	Ontario	43,393	\$1,326		\$222	\$3,350	\$404

### **Future Annual Fee Increase Approved or Proposed**

***Indiana - On 7/1/11 the annual registration fee increased from \$130 to the current fee of \$145.***

***Washington, D.C.-Increase from \$248 to \$255 effective 7/1/2012.***

***Wyoming-Is considering an increase this year but nothing has been enacted yet.***

# THE NATIONAL LAW JOURNAL

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## It's a buyers' market at law school

### Suddenly in demand, prospective students wonder, "How much money can I get?"

Facing a 25 percent decline in applicants over the past two years, many law schools have responded by accepting a larger percentage of applicants and sweetening their scholarship packages, in hopes of locking in prospective students.

Karen Sloan  
June 25, 2012

It's not unheard of for a law school facing a bloated incoming class to offer scholarship money to students on condition that they defer for a year. But Thomas Rozinski, a prelaw adviser at Touro College, saw something completely different this year when a student with a middling score on the Law School Admission Test sought to defer her enrollment at a second-tier law school for personal reasons.

"They offered her \$25,000 a year if she would come this year. That's \$75,000," said Rozinski, an assistant professor in Touro's political science department. "She was at the bottom of their range" for LSAT scores and undergraduate grade-point averages. "Quite frankly, I was surprised she got in at all."

It's anything but business as usual during this year's law school admissions cycle. That seemed obvious to the nearly 500 prelaw advisers and law school admissions officers who gathered in Washington in mid-June for a five-day conference of the Pre-Law Advisors National Council.

"It's quite competitive this year," said Heather Struck, assistant dean at Cornell University's College of Arts and Sciences and chairwoman of the organization. "I have seen, anecdotally, some very generous merit scholarship offers."

Law schools experienced a 25 percent decline in applicants nationwide during the past two years, due in part to the tight job market for new lawyers and a more widespread understanding of the high costs of attending. Many have responded by accepting a larger percentage of applicants and sweetening their scholarship packages, in hopes of locking in prospective students.

For their part, many would-be law students sense opportunity and are aggressively negotiating scholarship offers from competing schools, according to prelaw advisers and admissions deans. "I think every conversation I've had over the past six weeks has been, 'And how much money can I get?'" Wake Forest University School of Law assistant dean for admissions and financial aid Jay Shively said during one conference panel discussion.

### 'IT'S A BUYERS' MARKET'

Law schools typically dole out merit scholarships to students with sterling academic credentials, but Shively said that even applicants with LSAT scores and undergraduate grade-point averages below Wake Forest's median have been leveraging competing offers for money. "Although it's a daunting time for jobs, there has never been a better time to apply to law school," Shively said. "It's a buyers' market right now, and the numbers have never been better."

It's difficult to gauge how much the situation has changed this year. Law schools won't know who ultimately will enroll until the fall — and won't know the amount of their scholarship commitments until their incoming classes are final. The American Bar Association won't release statistics on total law school enrollment for the coming school year until 2013, but first-year enrollment declined by 3,791 students last year — about 7 percent.

Based on that drop and the 16 percent decline in the number of LSATs administered this cycle, University of St. Thomas School

of Law professor Jerome Organ predicted that first-year enrollment would fall by approximately 4,000 students nationwide during the coming academic year.

Law schools most likely upped their acceptance rates in response to the declining number of applicants, Organ said, but that gain probably would be offset as a lower percentage of admitted students matriculate.

Making the picture even murkier is the unusually robust amount of wait-list activity this year, according to a number of advisers and admissions deans. More schools are dipping into their wait lists to fill classes, which is having a domino effect on lower-ranked schools where admittees who appeared to be committed are slipping away.

"There's been a strong upward migration," Rozinski said. "A lot of the top schools underadmitted, and now they are calling people on their wait lists. The tier-two schools are seeing their classes erode." He has counseled some of his Touro applicants to hold off on committing to any school until June or July, because they might actually get into schools they didn't think possible.

The University of Michigan Law School is ranked No. 10 by *U.S. News & World Report*, but a larger than normal number of its admittees are getting the nod from even higher ranked schools where they had been put on wait lists, said assistant dean for admissions Sarah Zearfoss. "Wait list activity is way up," she said.

Jessica Soban, assistant dean and chief admissions officer at Harvard Law School, declined to offer any admissions numbers until the fall, but expected "any trend to be consistent with what our peer schools report."

This admissions cycle hasn't been all that different from previous ones for top-ranked Yale Law School, said associate dean Asha Rangappa. Yale — which takes only about half as many students each year as Harvard's 400 — saw a 7 percent drop in applications. Still, Rangappa expected to enroll a typical first-year class of 205 students without relaxing its admissions standards.

#### **SCHOLARSHIP MONEY**

With law classes undersubscribed and applicant commitments coming later in the game, scholarship money has come into play more than ever before.

Zearfoss said that one law school, which she declined to identify, offered half-tuition scholarships to each wait-list applicant they decided to offer admission. These offers can create discord within a law school class, she said, particularly when lower-performing students receive more scholarship money than students with better academic credentials.

Even Michigan admittees aren't immune to scholarship fever.

"Our second deposit deadline just passed, and a number of people came back to us and said, 'When I tried to withdraw from the other school, they said, 'We'll double your scholarship or give you a free ride.' " Zearfoss said. "It's frustrating for us because as a general policy we don't do a lot of negotiation. But it's also emotionally hard on the student. They just want things to be settled."

Even though Michigan increased its acceptance rate this year from the traditional one in five applicants to one in four, its incoming class still may end up slightly smaller than last year, she said.

The trickle-down effect of competition for students may be hitting lower-tier schools the hardest. Sherolyn Hurst, assistant dean for admissions and scholarships at the unranked Texas Wesleyan University School of Law, acknowledged that her school has had a hard time competing.

"It's frustrating for me," she said. "I'm seeing colleagues offering scholarships to people they wouldn't have admitted last year. We don't have millions of dollars in an endowment, but we're trying to do right by our students."

She later noted that some other unranked schools appear to be struggling even more than Texas Wesleyan to fill their incoming classes.

Kathy Uradnik, a political science professor and prelaw adviser at St. Cloud State University in Minnesota, is happy to see her students accepted at a broader cross-section of law schools but uncomfortable with what she views as the arbitrary nature of the admission decisions and scholarship offers. She recalled a standout applicant from St. Cloud State several years ago who received no scholarship offers and borrowed the entire cost of her legal education. Now, even lower-performing students are being wooed with acceptance offers and scholarship money, she said.

"They don't shine as much and they're getting 50-, 75-, and 100 percent scholarships," Uradnik said. "It's essentially a free-for-all. It's almost like selling yourself to the highest bidder. Everybody is competing."

Prospective law students would be wise to read the fine print of scholarship offers, warned University of Southern California Gould School of Law director of admissions David Kirschner.

Some schools, including USC, don't place conditions on their scholarships other than requiring that recipients don't flunk out. But others require students to maintain grade-point averages of 3.0 or above — meaning a hefty percentage may lose their scholarships after the first year, given the steep law school grading curve.

"The problems arise when schools are not transparent about the stipulations," Kirschner said. "Students are bringing me a scholarship offer from school X, and I always say, 'How is that offer broken down? Are there stipulations?' Our \$20,000 scholarship for three years looks much better when you compare it to a \$30,000 a year offer with stipulations."

Uradnik said that many of her students have received scholarship offers this year containing grade stipulations, and that they often don't understand the implications.

Applicants should take advantage of the relaxed admissions standards and unusually deep pot of scholarship money while they can — there simply isn't enough money to keep doling out scholarships at this pace every year, said Sophia Sim, associate dean for admissions and financial aid at George Washington University Law School.

Monica Ingram, assistant dean for admissions and financial aid at the University of Texas School of Law, agreed. "It's not going to take law schools long to right things," Ingram said, noting that Texas' incoming class will be smaller than usual. "This year is an anomaly. It may be off next year as well, but things will correct themselves."

*Karen Sloan can be contacted at [ksloan@alm.com](mailto:ksloan@alm.com).*

Oregonian article, "Law school graduates from Oregon and the nation lost in debt, looking for work" – generated approx. 175 reader comments (see below).

Oregonian article, "Law schools revenues soar as they take in millions from tuition and fees, as supply exceeds demand" – includes 15 reader comments (see below).

Link to transcript of Live Chat follow-up with Jeff Manning on August:

[http://www.oregonlive.com/business/index.ssf/2012/08/new\\_law\\_school\\_grads\\_hurt\\_by\\_w.html](http://www.oregonlive.com/business/index.ssf/2012/08/new_law_school_grads_hurt_by_w.html)

Note: Click the "play" button on the viewing window to view the transcript

Selected comments posted to these articles:

After reading through many of the posts on this thread, it seems clear that many of the ones posting along the lines of "I don't feel sorry for X" missed the point of the article. As I take it, Mr. Manning's entire theme is that these unemployed grads are only symptoms of a problem that is certainly going to come to a head in the very near future, if nothing is done about it.

And to directly address those who not only post things such as "I don't feel sorry for X," or somehow implying that only those who want to become "public interest lawyers" are the ones we should feel sorry for, I ask only one question: How would your reaction be if I said the same thing when talking about graduates who majored in education?

#

"The travails of their students has led to some soul-searching at the law schools. Klonoff said flatly there are too many law schools. "There are 200 law schools, there should be 125," he said. Klonoff intends to shrink Lewis & Clark's enrollment to less than 200 per class. In prior years its entering class ranged from 226 to 247. "

That's just Ass-backwards (typical lawyer/teacher). There should be 2000 law schools! More schools = more competition to be better and less cost per school to attract students - take THAT all you Milton Friedman, "free market" types! Hell I think I'll start my own law school - LAW degrees for the masses I say!!!! The only way to beat 'em is to join 'em!!!! PLUS, all the out-a-work lawyers can TEACH at them - PROBLEM SOLVED!!!!!!!!!!!!

#

It's hard to see the problem as a lack of demand for lawyers when nationally, legal aid organizations turn away half off the people that come to them for help. The issue may be the ABA's accreditation standards, that add to the cost of law school without really doing much to improve the quality of education, create an artificial price floor - driving up the cost of legal services.

Also why is it such an unthinkable path for a new lawyer to start their own practice? You'd think for \$118K or whatever you'd learn how to you know, practice law...

#

It is almost impossible for a new lawyer to start a successful practice for a few reasons.

1) There are a ton of clients out there, but very few PAYING clients. Most people want their legal work done for free or a very minimal amount that would not cover fixed costs.

2) Law school does not teach you how to practice law. Law professors are drawn from backgrounds where they themselves have never practiced law, or have practiced law according to a very particular, rare, prestigious career track. The typical track for a law professor is Harvard/Yale/Stanford/some other elite school > prestigious clerkship for a federal appeals judge > a few years at a big law firm doing junior associate grunt work or at a government agency setting policy > tenure track faculty position. These kinds of law are something 99% of law students will never sniff during their careers. These law professors think areas of law like small business, divorce, trusts and estates, state criminal law are beneath them.

3) The costs of trying to break into the legal market are high- it's like any small business. You need a substantial advertising budget to get the kind of client inflow necessary to meet your fixed costs + loan payments because there are so many lawyers already out there. Please tell me what bank is going to make a small business loan to someone 150K in debt?

#

Comment from Jeff Manning, The Oregonian

Thanks everyone for the largely thoughtful comments. To the nwcynics and SuperDuperEgos of the world, let me try to explain why even you should care about this story. We live in a consumer economy. About 70 percent of our economy relies on people buying stuff. When a generation of ambitious, bright young people come out of college burdened with debt, it constrains their buying power for years.

You can turn up your nose and dismiss these people as chumps all you want. But it goes far beyond lawyers and law school. It goes to the heart of our economy and our higher education system.

#

Problem is it's Lawyers that helped get us into this economic nightmare in the first place. It sounds like anybody that goes into Law and can't pay for their debt is a chump. TRUST ME, if the bankruptcy laws covered student loans, the law school baby's would be the first in line to file!!!

#

This article is like a nuclear bomb dropping inside my home. As a new lawyer, who is one of those not-so-lucky grads just trying to get by by starting a solo practice, this article put into words what me and some friends and colleagues have talked about since law school ended.

May I ask, what inspired you to write this article, focusing on new lawyers? I would imagine that students coming out of both undergraduate and graduate school would be facing the same problem. What is it about lawyers that stands out for you, as opposed to, say, doctors?

#

I am sympathetic for her, but not altogether sorry for her. To enroll and attend law school is a choice, and not a mandate. She chose to incur a massive amount of debt for what I am assuming is the premise that her first job out of the gate would be a high paying job. Time will tell, but for now she is under some serious pressure to produce...

I am sympathetic only because college is not for everyone, despite what the colleges are advertising. Too many people paying for higher education just to enter the workforce as a minion doing the job a GED would be required for. If you do not have a passion for your major and a passion to enter the field once you graduate, you are already miles behind the pack.

The question I would ask this lady: "Why did you choose to become a lawyer?" If answered honestly, that would make for a more interesting story...

#

I don't mean to sound old and outdated but I think the commonly accepted idea that it's a good thing to incur a lot of debt for education is a mistake which young people should be counseled against, especially in this era of poor job prospects.

This may seem unusual to many but myself and all my classmates went to night law school at Northwestern School of Law in Portland, we all had full-time jobs and some had the GI bill, but as far as I know, none of us incurred any debt, I know for sure I didn't. So, when I graduated I still had my old job, a car which was paid for, a home mortgage and a family which I supported. I then looked for a law-job because that's what I wanted to do; it took a while but I found a job which paid a little more than my non-legal job and have been practicing for many years, and the same goes for my classmates.

The point is simple, why borrow a lot of money? Why not work and pay as you go or accept the fact that the whole idea is unaffordable and do something else!!

It's the private law schools that are making all the money, that needs to stop and one way to stop it is to quit handing out loans.

#

Thank you for reminding me, and informing others, that once-upon-a-time Law schools were AFFORDABLE and NOT "country club" exclusive.

#

One of the things this article doesn't mention is that many law grads, especially at the U of Oregon, go into law to practice public interest law - like Tom Borton. The world needs public interest lawyers. But those new grads are then saddled with debt so ridiculous that they're forced to take other jobs just to pay their student loans. Prior to law school, I was lucky enough to have a great paying job. Since law school, I've never even sniffed the salary I was making prior to law school 12 years ago. My goal was never to become rich. If it was, I'd have stayed in my previous profession. But law school actually left me in a FAR worse position financially. I had no debt prior to it and now I'll have debt for the next 25 years. And knowing Budbill and Borton personally, I know they weren't "attempt[ing] to become rich," they were attempting to do good. And the real tragedy is that they not only struggling to do good, but they're struggling to even pursue a middle class lifestyle.

And that is the intent of the irrational increases in prices and taking in so many students they knew would not be able to get a job in law.

The huge hobbles those who persued it with the intent you had sapping their energy and diminishing their effectiveness and all the extra people who took it on are a source of money. So its win win for those who have set this up and lose lose for the rest of us.

#

It is wonderful to hear that you have no symptathy, and I am touched and moved by the smugness, self-righteousness and ignorant attitude which your post conveys. It is unfair and immoral to judge these law students as simply chasing money and to imply that they got what they deserved. Many people go to law school out of an interest in the law, because they want to effect change in society, or because they want to make a difference. The fact is that law schools have made a practice of deceiving young people into a lifetime of debt with meagre job prospects, and have greatly prospered on the federal loan dole.

The entire legal education system is in store for a major shakedown. Law schools have been crucified in the press over the past few years, word is getting out that law is a terrible investment, and applications have sharply declined for the second year in row. I predict law school closures by the end of the decade.

Fortunately, with IBR, one does not really need to repay educational loans, but that is another matter altogether.

#

If you think about it the price of a legal education should be one of the cheapest. There is very little in the way of equipment necessary, computers aren't even necessary. The fact is the knowledge is already in existence and not changing. There are some new laws but they do not cost millions to learn or quantify.

They learn the facts of the laws in existence and the processes of trials, how to process legal papers, the principles of legal thought etc. all of this is already known and only being passed on. There is very little in the way of "experience" necessary to practice law and all of that usually happens after graduation.

So how exactly did this education get so expensive? One reason I imagine is the prices are based on projections of future earnings. What else?

#

State bar associations have pretty broad leeway to set rules for who they may admit to the bar, subject to certain constitutional provisions. California is the only state I can think of that will allow students to sit for the bar exam coming from an unaccredited schools. And the CA bar exam is the hardest in the nation.

You are not as far off as you might think. Originally there were thousands of law schools with very diverse tuition costs and curricula. You had the Harvards/Yales but also one-room schools for recent immigrants. Then the WASP elites of the profession found that too many immigrants (Jews, Italians, Greeks) were holding themselves out as lawyers. They hooked up with the faculty of the top law schools to require a certain kind of legal curriculum before you could sit for the bar. Law schools were forced to get in line or fold.

It is this curriculum that drives up costs. Law schools structure themselves around a 130 year old ideology of law teaching that is one of the most stress-inducing and ineffective pedagogical methods in ANY American educational institution. Every school must play the "Harvard game" without Harvard job prospects. This works out very well for the largely progressive, liberal law professors and deans and not very well for anybody else.

#

I don't necessarily follow the race based part of that explanation but race is involved in a different way. I am in one of those groups whose progenitors started here in the early 20th century.

I think you can see the whole in that point about the test making certain of excluding charlatans, if one can pass it then one must be qualified. It is the requirement of having gone to a school that is the actual exclusionary tool here not the test as claimed. It was when these things got established near impossible for anyone not white or at least vouched for by a white to get into a law school. And that is how whom got to be a lawyer was controlled.

As for curriculum driving up costs that can't be since the curriculum sans new laws has to be exactly the same as it has always been. There is no possible justification beyond price of teacher, price of books, price of building for any tuition charges yet what is charged is so often well beyond what could justifiably be said to be for those things.

Which comes back to my assertion that the current charges are not reasonable and intended to limit those not driven by or into avarice. The fact is if it were a reasonable 49K for a legal degree a very large portion of the grads who pass the bar would become public service attorney's and many more would join the profession and take down the legalese culture that has the People so wrapped up in gibberish public debates as they have no idea how to penetrate the legalese that has our system tied up by the wealthy who paid these lawyers to do it.

#

Well we can all state the obvious schadenfreude based insults and other forms of lawyers deserve it, but I think the larger point is being missed. This debt keeps these people under control. Most will be regular folk who just wanted to make a good living and if they don't make waves they probably will be able to make their payments.

Those who use their legal knowledge to affect real change in the status quo that makes the average person's life better by cutting into the profit margins of those who control our economy can be drug down by denial of work, garnishment and all the other hidden tools the wealthy now use as a means of control since open abuse was taken away from them.

"Budbill says no one tricked her into taking on the debt. She also doesn't remember any law school official ever warning her off the loans." She may not have been "tricked" but she was certainly not told the full truth of what she was getting into.

We may think all lawyers are scum but I think those of us who think at all realize this cannot be true. What this over priced education does is limit the numbers of those who would surely otherwise have gone into public service law or taken up small cases that are not worth huge sums but have huge effect on individual lives. Who would willingly live in the poverty our system now inflicts via "credit scores" which are often manipulated outside of our ability to control, if they could live well by just going along? In spite of the tendency for all of us to imagine we would do the right thing and be good and generous the fact is, Very few that's who.

This sort of debt focuses the lawyer on money even those who do not wish to be, playing on the known fact that 95% + of people will make honest attempts to repay their loans even going so far as to set aside their principles and deny themselves to do so. And the last 5% are controlled by the no discharge by bankruptcy clause.

Often by the time such payment is completed decades later the original person if they chose to hold their tongue and work in a place they would rather not is gone via the process of living that way. With principles on hold so long there is no time left become who they intended to be or the sacrifice necessary to do so no longer has the appeal it did when young and full of energy.

The mechanisms by which correction is meant to occur in our society have been deliberately handicapped and in many places broken. And yes it was lawyers or people with legal education who figured out how to do it.

#

The kids coming out of school with this kind of debt are IMHO not getting the level of financial support from their family that the system expects their family to contribute. Your analysis is ignoring that most children of wealthy or upper middle class are graduating with college degrees and have no debt - because their families stepped up to the plate and paid for it. Lots of those people are not debt slaves - yet they aren't the ones going into public service law or taking up small cases that are not worth huge sums yet have a major effect on people's lives.

The fact is that the people doing this public service law are more often than not the very debt slaves that you are claiming are compromising their principles.

#

My comment here is for Bridget. Bridget, your going through a tough time and your going to scramble for a while. Welcome to the club! But keep the following in mind:

1) When your 80 years old and ready to drop dead, the only people who are going to care that you lived at all are your family. Your career will mean nothing. Don't let your career problems today interfere with your family/romantic relationships as those are the only ones worth anything.

2) A LOT of older lawyers out there with very large investments saw gigantic losses in the last 2000's. They would have retired by now but they cannot afford to stop working, so they are still working, and that is part of the job crunch. it's happening in a lot of industries. But eventually they won't be able to work anymore and they will have no choice but to exit. And the openings will happen if you want to work as a lawyer then.

3) Don't feel ashamed if you have to move back with your parents if that is still an option. A lot of people making more money than you have had to do this.

4) The Resume/Interview system used in this country that matches employers with employees is the most cocked-up, inefficient, and arbitrary system in existence that anyone could have dreamed up. It is also tremendously biased towards both employers and employees who know how to use it - and tremendously biased AGAINST those who do not. And a HUGE number of employers out there do NOT know how to use it - but regularly delude themselves that they actually do. Don't be one of those people who think they know how to look for a job but don't, really. If your not getting interviews, your doing something wrong - see an interview/job seeking consultant.

Half of the new lawyers out there may be seeking for a job - but half of them DID get a job. Figure out what it is that they did, and don't pay any attention to what the people who didn't get a job have done.

Your greatest threat to you is fear - fear of not getting hired leads many to give up on the process and when you do that you lose.

#

She could be doing pro-bono work or helping at a legal clinic or doing something for the criminal justice system. Let's face it though - most people aren't in this profession anymore for the greater good and they haven't been for decades and decades. They're in it for the money. Some of the best lawyers in Oregon are making more than \$500 an hour billing their corporate clients in innovative ways. Do you think they plan on giving up that corporate gravy train? No. If you aren't good enough what do you do? You run for mayor.

#

How is she going to make enough money to eat if she is volunteering full-time? You sound naive.

#

Are you in law school? Because I'm not in this for the money. Neither are a sizable portion of my classmates. This is Oregon. Our law schools churn out public interest(ed) graduates at an alarming rate.

A lot of us are here because we want to help people. Even people who generalize about our profession and berate us on message boards.

#

Boo Frickin' hooo. Thank God for places like Legal Zoom that provides affordable legal care.

#

We had all better wish these kids the best. It is sad they did not receive the financial education and guidance they needed before signing on the dotted line. We had all better hope they find jobs or create their own opportunities. The loans they received are all government backed loans, that means the taxpayers will end up paying the debt.

There are lots of opportunities as some above have mentioned, teaching English overseas, joining the military working in corporate jobs. They are obviously very bright and capable. They have worked hard and are faced with changing their life plans. I think they will rise to the challenge and all lead good and productive lives.

#

The taxpayers won't end up paying the debt because unless these people throw the next 40 years of their lives away and become bums, they are going to find jobs somewhere. And the government will be there for the rest of their lives, taking it's cut of their income.

#

Is this another old person complaining about today's kids? You know there's no "dotted line," right? At best, it's a quick electronic application that doesn't realistically explain your job prospects at graduation.

I have a problem with old people. I have an additional problem with old people who comment on the higher education system as it exists today.

For two reasons.

1) They continually attack young persons for not considering the "consequences" of taking out loans, or the available job prospects at graduation. They're using the benefit of wisdom and hindsight to comment on a situation they know nothing about. They don't understand that schools, advisers, academic counselors -- all encourage us to borrow money to finance our education, assuring us with inflated figures of job prospects upon graduation.

It's a business. It preys on young, naive persons.

2) The second reason I have a problem with old people in this regard, is because they keep suggesting that we younger folk should abandon our career goals to do something "cheaper," or that doesn't require such hefty loans. For one, without access to loans, higher education would be foreclosed to the poor. For two, when you went to school, if you did, it was \$500-\$1000 a year in tuition.

Higher education has changed tremendously over the decades. Mostly these changes came in the form of exponentially increasing tuition rates.

The whole system is broken. But you should really stop blaming the students.

Damn kids. Damn old people.

## Law school graduates from Oregon and the nation lost in debt, looking for work

Published: Saturday, August 04, 2012, 12:00 PM Updated: Monday, August 06, 2012, 8:11 AM



By Jeff Manning, The Oregonian



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Like thousands of her fellow lawyers, Bridget Budbill is struggling to get her legal career launched amid a major shakeout in the industry. The University of Oregon Law School grad is deeply in debt and living a spartan existence, which includes motoring around in a 33-year-old Mercedes that was once her family's car.

Bridget Budbill is working a temporary job, living in a cramped studio apartment and nursing a '79 diesel Mercedes with timing chain issues. In November, her job ends and the first payment comes due on her \$150,000 law school debt.

This is not how the 28-year-old **University of Oregon Law School** grad imagined her first year as a lawyer.

Budbill is one of a "lost generation" of rookie lawyers who incurred stratospheric debt only to graduate into the worst market for first-year attorneys in decades. Long seen as a road to upper-middle-class comfort or even country club wealth, law school has instead left her stalled.

Nationally, fewer than half 2011 law school graduates found work as lawyers, the least in recent memory, perhaps ever. Those lucky enough to find lawyer jobs were greeted with salaries 17 percent less than two years ago.

When the recession KO'ed the economy in 2008, it ushered in a frightening new era of financial and professional anxiety. The law business has proven just as vulnerable as countless others to the combined forces of the economic slowdown, pervasive technological change and globalization. A couple years into a frustratingly slow recovery, the new normal has slapped a shell-shocked legal world.

### Diminished expectations

An occasional series on today's economy. **Read more: Law schools revenues soar as supply exceeds demand**

Law firms are downsizing, a handful are going bankrupt. Nearly 9 percent of law firm associates lost their job in 2009. Clients are demanding a new cost-sensitivity, an environment that leaves precious little room for new law school grads.

The struggling young lawyers personify one of the great public policy dilemmas of our time. A highly educated citizenry has never been more vital to America's global competitiveness. But is **higher education worth the ever-increasing cost**? Is the trillion-dollar torrent of student loans bankrolling the system sustainable? Is a system that leaves some of the best and brightest of the young generation mired in debt doing anyone any favors?

The issue raises hard questions for the very big business of higher education. What is the morality of law schools collecting \$4 billion-plus in annual tuition and fees to produce another 43,000 lawyers when supply far exceeds demand?

**Dismal job prospects drive law school graduate to Rock and Roll Camp for Girls** Beth Wooten is the executive director of Portland's Rock 'N' Rock Camp for Girls. The former punk rock guitarist and self-designated idealist graduated from University of Oregon Law School in May 2011, but realized there was little to no chance she could find a job as a lawyer. Now she's saddled with \$150,000 debt and makes less money than she did before entering law school. Today's law school grads are not the first to see their hard-earned graduate degrees yield disappointing results. But they are among the first to rack up home-mortgage-sized debt in the process.

"This is a generational catastrophe," said Paul Campos, a University of Colorado law professor and scathing critic of the status quo. "It's an absolute disaster out there, for the legal profession in general, but especially for people who are entering it right now."

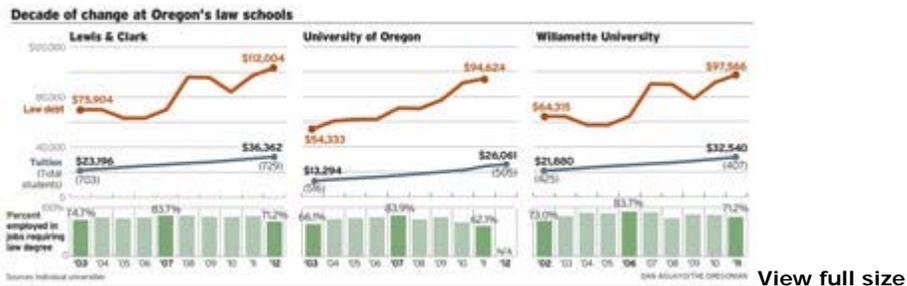
Some law students say they were hoodwinked. Grads have filed 12 class-action lawsuits against their schools claiming they were misled about job and salary prospects.

Budbill says no one tricked her into taking on the debt. She also doesn't remember any law school official ever warning her off the loans.

"I don't regret law school," Budbill said. "I don't know if I'd do it twice. I never thought it would be easy. I just never thought it would be so difficult to get started. This debt is like a black hole. It will follow me the rest of my life. "

### **PUTTING ON THE BRAKES**

In 2009, when Budbill was still giddy at being accepted into law school, Wally Van Valkenburg and his partners at the **Stoel Rives law firm** in Portland faced a grim reality. Customers clamored for the city's largest, most prestigious and most expensive law firm to cut its bills.



The economy was in disarray and the firm's annual revenue -- then \$190 million -- was flattening. So in one of the few times in Stoel Rives' illustrious history, it laid off a handful of associates and support staff.

"It's a tough business out there right now," Van Valkenburg said. Customers recognize there are thousands of individual lawyers in the U.S. eager for contract work. There are entire firms in India and the Philippines that will work for a pittance. Technology companies offer products that automate parts of the practice of law.

"We have a client that is pushing us to go offshore," he said. "Their attitude is, you need to figure this out or we'll go find people who can."

Michael Owens landed one of the coveted summer internships at Stoel Rives that same summer. The Montana native, a highly ranked student at Willamette University Law School in Salem, thought he'd hit the motherlode. Historically, a competent second-year intern could count on a full-time job at Stoel waiting upon graduation.

Owens loved his time at the firm, which made the news in October all the harder. Stoel would hire none of its summer crew. "Everyone said they were happy with my performance," Owens said. "It was the economy."

Owens was forced into a once-unthinkable path -- he and three other rookie lawyers started their own firm in Portland.

The current tight times contrast to much of the 1990s and the first half of last decade. Law schools couldn't produce graduates fast enough, particularly as the dot.com boom turbo-charged the economy.

"It wasn't particularly price-sensitive work because there was so much money flowing," Van Valkenburg said.

It was a sweet time for young lawyers. Stoel Rives paid first-years \$100,000 to \$110,000 a year.

"**Greedy Associates**" websites and list-serves popped up around the country where young attorneys plotted how to get more.

By mid-decade, well before the recession, things began to change. Clients questioned ever-escalating legal costs. The information revolution gave easy access to information and empowered clients with alternatives to traditional legal services. Then came the mortgage crisis, the housing bust and the near collapse of the U.S. financial markets.

"People just hunkered down," said Steve English, of the **Perkins Coie** firm in Portland. "They were terrified to spend money and they realized they didn't have to. They cut their legal spending and it's not coming back."

Lewis & Clark, UO and Willamette produce more than 500 law graduates per year. The percentage of their students' finding lawyer jobs mirrors the national plunge. But the schools have enjoyed sustained revenue gains and hefty management salaries that would make the private sector envious.

**Lewis & Clark Law School's** revenue has soared from \$19 million to \$30.1 million the past decade. The UO Law School revenue jumped from \$10.1 million to \$17.4 million.

Willamette refused to divulge its law school revenues. But with 407 students in 2011 paying \$32,540 in annual tuition and fees, the number is north of \$13 million, a 40 percent jump from 2002.

Of course, the schools' expenses have also increased. In particular, state support of the University of Oregon has fallen to a pittance, forcing UO to find other revenue. Those expenses include some handsome salaries.

Symeon Symeonides, the now-retired dean of Willamette Law School, received \$342,879 in total compensation in 2010, according to its tax returns, making him the highest-paid law school administrator in the state. Lewis and Clark's Robert Klonoff received \$273,632 in 2010. Three Lewis & Clark professors at the school also boasted compensation north of \$200,000.

The travails of their students has led to some soul-searching at the law schools. Klonoff said flatly there are too many law schools. "There are 200 law schools, there should be 125," he said. Klonoff intends to shrink Lewis & Clark's enrollment to less than 200 per class. In prior years its entering class ranged from 226 to 247.

The schools are scrambling to adjust their curriculums, emphasizing practical over theoretical. They've stepped up efforts to help grads find jobs, clerkships, internships, anything to get real-world experience and establish a network of industry contracts.

Students, of course, pick up the tab. Three years of law school currently costs from more than \$75,000 for in-state students at UO, to \$97,500 at Willamette to \$114,450 at Lewis & Clark. Add another \$30,000 to \$45,000 for three years of living expenses.

Most young law students don't have that kind of cash laying around. So they borrow.

UO and Willamette 2011 graduates reported average total debt of more than \$90,000 in 2011 while Lewis & Clark students' average debt in 2010, the most recent year available, topped \$112,000.

**IN DEEP**

It's become fashionable to berate students for incurring that kind of debt.

Mark Kantrowitz, creator of the respected [findaid.org](http://findaid.org) college finance website, said students badly need a remedial course in personal finance. They don't understand the life-altering ball and chain that a six-figure loan at 7-plus percent interest actually poses. "They just sign the promissory notes," he said.

The law school grads interviewed for this story to a person said they didn't think enough about the impact of the debt when they accepted the loans. They were thrilled to survive the rigorous admittance process. Loans were presented to them as a normal rite of passage.

None of the grads remembers anyone from their respective schools counseling them to be wary.

"The total cost was never clear," Budbill said. "It may be totally my fault. But I figured I had three years. Everyone does it. My dad went to grad school. He borrowed."

Budbill is resourceful. After getting nowhere at law firms, she volunteered for Mary Nolan's Portland City Council campaign and leveraged it into a paying job fundraising for the Oregon Democratic Caucus. She's been able to defer payment on her debt for a year. The deferment ends this fall as does her job.

"I have no idea what happens in November," she said.

Other students said employment and average starting salary data provided by their schools reassured them. Courtney Munson graduated with honors from UO Law School. Unable to land a position as an attorney and facing \$64,000 in debt, she left Eugene for her home state of Alaska.

"It's really depressing," said Munson, who has since gone to work for an Anchorage nonprofit active in renewable energy issues. "Part of me feels like I should have done more research. On the other hand, they don't make it easy to do the research. They sort of cook the books. They've got these average

salary numbers. But the numbers are skewed by a couple of people earning six-figure incomes. And then you've got a bunch of other people making \$40,000."

Whether law schools are providing accurate information or self-serving propaganda has set off a nasty legal battle. Former students have filed at least 12 lawsuits against their schools claiming they were defrauded. Kyle McEntee, a Vanderbilt University Law School grad, co-founded the Law School Transparency Project in hopes of forcing the law school establishment to get real with prospective students.

Until recently, the only job placement data made available by the schools was a simply yes/no employment question asked nine months after graduation. The survey made no distinction between a young corporate lawyer pulling in six figures and a guy flipping burgers. The American Bar Association, which accredits the nation's law schools, quickly yielded to popular pressure and began demanding the school provide significantly more details.

"Whether these graduates are going to win in these lawsuits, whether they're going to get any damages, I don't know," McEntee, said. "The underlying claims that they've been misled, there's no question in my mind that is true."

The federal government took control of the college loan industry in 2010. It was a natural, if controversial, evolution from the prior arrangement, when banks made the loans and the government guaranteed repayment. "It made sense to cut out the middle man," said Christian deRitis, an analyst at Moody's.

College debt is one of the rare forms of debt that cannot be discharged in bankruptcy court. The government can garnish 15 percent of a defaulted borrower's wages, tax refunds and Social Security payments.

The government has also instituted programs that allow students to consolidate loans, to defer

payment and even forgive the debt.

Tom Borton, a 2009 UO law school grad, is taking advantage of all three. He works for Metropolitan Public Defender Services, a nonprofit in Portland providing legal services to the poor. He owes \$136,000. But because he makes just \$46,000 a year, he qualified for an income-based repayment program that cut payments to \$476 a month.

Borton figures his salary will max out at the public defender's office at about \$69,000, a decidedly modest sum for an experienced attorney. Fortunately, he enjoys his job, because he can't afford to leave. He needs to stay in public service 10 years to get some or all his debt forgiven.

Borton's fiancée is also a new lawyer and burdened with debt. Right now, they're making it work. "I'm one of the lucky ones who landed on his feet," he said. "But I don't have a family. A lot of my financial hardships are ahead of me still. The debt constrains what people can do. It constrains people from being creative. How do you get out on your own? I can't."

There are plenty of grads who wished they faced Borton's problems. At least he's practicing law.

Joe is a 2011 Willamette grad. (He asks that his full name not be used.) He sent 34 applications in the first month after graduation. Only 10 bothered with a rejection letter.

Joe has the deeply tanned face of the avid golfer, which he is. But he's on the golf course for a different reason these days. To get by, he works an early landscaping shift. The crew of largely Latino workers allows him to fine-tune his Spanish, he said.

His \$131,000 debt has already grown to \$137,000 with interest. Over the life of the loan, he figures he'll pay between \$400,000 and \$500,000.

Joe vows to carry on. He continues to network. But given his lousy luck getting interviews, he's

considering opening his own practice.

"There are definitely times when it hits you harder than others," he said. "I can't even get in the room."

-- **Jeff Manning**

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## Law schools revenues soar as they take in millions from tuition and fees, as supply exceeds demand

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By Jeff Manning, The Oregonian



[View full size](#) Thomas Boyd/The OregonianTom

Borton followed his father into the law. His dad came out with little if any debt. Borton owes \$136,000. He feels lucky to be practicing law. The Metropolitan Public Defender's Office attorney intends to stay in public service, despite the modest salary, in order to get some of his debt forgiven.

America's higher ed system, the envy of the world, is creating a new debtor class.

College grads now leave owing more than \$26,000 on average. Grad students can owe much more.

Law students commonly finish owing \$100,000 to \$150,000.

The federal student loan portfolio exploded in the last decade from \$295 billion in 2002 to **\$848 billion in 2011**. It amounts to a vast transfer of wealth from the taxpayer to the nation's colleges, leaving students to repay the loans.

That flood tide of federal money has attracted some unusual players. Consider the case of **Phoenix School of Law, Florida Coastal School of Law and the Charlotte School of Law**. The government loaned more than \$150 million in 2011 to the students of the three stand-alone law schools, according to the U.S. Department of Education. Phoenix students finished with a median debt of \$153,489.

The three schools are owned by Sterling Partners, a Chicago private equity firm. They are among a new breed of for-profit law schools to emerge in recent years. Once the American Bar Association accredited the schools, their students became eligible for federal loans.

"Sterling is making a ton of money courtesy of the U.S. taxpayer when no bank would lend a dime to these students," said Paul Campos, a University of Colorado Law School professor.

### Diminished expectations

**READ MORE:** An occasional series on today's economy. Other coverage: **Law school graduates from Oregon and the nation lost in debt, looking for work**

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At noon Monday, talk to reporter Jeff Manning on [oregonlive.com](http://oregonlive.com)

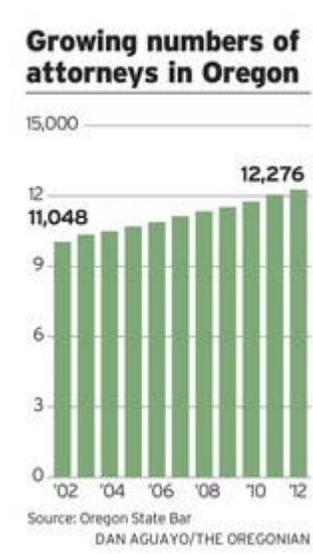
Oregon's three law schools are under more standard higher ed ownership. The **University of Oregon** is part of the state system while **Lewis & Clark** and **Willamette University** are private non-profits. But they too ride the federal student loan gravy train.

Lewis & Clark students got \$47 million in federal loans in 2011. Willamette students got \$32.5 million and students at the much larger UO got \$150.4 million. Those are university-wide numbers. Law school loans are not separately listed.

Others want in on the action. Sixteen new law schools were accredited by the **American Bar Association** over the last 10 years putting the total at 202 nationwide.

John O'Brien, dean of the New England School of Law and chair of the ABA's legal accreditation committee, agreed the new schools are adding to a significant oversupply of lawyers. But the supply-demand imbalance is not a factor the ABA considers.

"It's not the ABA's job to police the number of law schools," O'Brien said. "Law schools are like other businesses. Ultimately, that's what they are. If there are people who feel there is a void that needs to be filled around the country, the process is to apply for ABA approval. If you meet those standards, you get approved."



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It's tempting to compare the student loan bubble to the mortgage bubble circa 2007. The easy credit standards, the rapid growth and a recent increase in loan defaults recall the out-of-control home lending business before it crashed. For all its immensity, however, the \$900 billion student loan business is probably too small to destabilize the entire economy the way the mortgage crash did.

But there's little doubt that student debt is impacting the broader economy. In late July, Neal Soss, chief economist at Credit Suisse in New York, attributed weakness in the housing market in part to student debt. Young would-be homebuyers are staying out of the housing market because they can't qualify for the mortgage loan due to their college debt, he said.

Today, some speculate that the availability of college loans has helped make college more expensive. It's worth asking whether the easy credit "actually makes education more affordable or merely enables educational institutions to charge more in tuition and fees," said Moody's analyst Cristian deRitis in a recent report on the student loan market.

President Obama issued a surprise warning to the higher ed in his 2012 **State of the Union**. "Let me put colleges and universities on notice: If you can't stop tuition from going up, the funding you get from taxpayers will go down," he said. "Higher education can't be a luxury -- it is an economic imperative that every family in America should be able to afford."

While the debate rages, students have clearly gotten the word about the lawyer glut. Students taking the LSAT entrance exam has fallen more than 25 percent over the last two years.

But schools continue to take the law school plunge. **Concordia University** of Northeast Portland is opening its Concordia School of Law in downtown Boise later this month. It is still taking applications.

-- **Jeff Manning**

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