President Chris Costantino called the open session meeting to order at 1:00 p.m. on November 23, 2019. The meeting adjourned at 4:47 p.m. Members present from the Board of Governors were Colin Andries, John Bachofner, Whitney Boise, Chris Costantino, Eric Foster, Kamron Graham, John Grant, Rob Gratchner, Bik-Na Han, Eddie Medina, Liani Reeves, Julia Rice, Kyra Rohner, Michael Rondeau, Traci Rossi, David Wade, Kate Denning, Jenny Cooke, and Joseph Hesbrook. PLF Members present were Carol Bernick and Molly Jo Mullen. Guests and New Board Members present were Adrian Brown, Mae Lee Browning, Ivan Resendiz Gutierrez, Anne Graham, Ryan Hunt, and Joel Sturm. Staff present for open session were Judith Baker, Cassandra Dyke, Danielle Edwards, Susan Grabe, Helen Hierschbiel, Keith Palevsky, Jon Puente, and Kay Pulju.

Saturday, November 23, 2019

1. Call to Order

2. 2020 President & President-elect Elections
   A. Confirmation of Liani Reeves for 2020 President [Ms. Costantino]
   B. Confirmation of David Wade for 2020 President-elect [Ms. Reeves]

   Ms. Costantino and Ms. Reeves confirmed the president and president-elect elections.

   Motion: Mr. Rondeau moved and Mr. Foster seconded the motion to appoint Liani Reeves as 2020 president. The board voted unanimously in favor. The motion passed.

   Ms. Costantino announced Ms. Reeves as the 2020 president.

   Ms. Reeves announced David Wade as the sole candidate for the 2020 president-elect.

3. BOG Areas of Focus for 2019 [Ms. Costantino]

   Ms. Costantino went over the Area of Focus for 2019. [Exhibit A]

4. Climate Survey [Mr. Puente and Ms. Pulju]

   Mr. Puente and Ms. Pulju presented information regarding the climate survey.

5. BOG Committees
   A. Policy and Governance Committee [Ms. Reeves]

      1. Bylaw on Travel Reimbursement

   Ms. Reeves presented proposed OSB Bylaw 7.5 regarding Travel Reimbursement. Board members had a number of legal questions about the proposal. Because Ms. Hollister was not present at the meeting to provide legal advice and answer those questions, there was consensus to hold this over to the next board meeting. [Exhibit B]

Ms. Reeves presented information about the proposed new OSB Bylaw 2.9, which would require the bar to submit annually all proposals to amend the Oregon Rules of Professional Conduct that were considered in the prior year, but not adopted, for its review. This would go into effect immediately so the bar would send the list at the beginning of 2020 for proposals considered and not adopted in 2019.

**Motion:** Policy and Governance Committee motion to waive the one meeting notice requirement and adopt the proposed OSB Bylaw 2.9. The board voted unanimously in favor. The motion passed. [Exhibit C]

3. Leadership Institute Program (NEW)

Ms. Reeves gave a summary of the Leadership Institute and asked Jon Puente to provide more detail. Mr. Puente described the proposed program in more detail, as set forth in the materials provided. He noted that past D&I efforts at the bar have been focused on recruitment of law students; the goal of this program is to increase retention of lawyers from non-dominant cultures by providing leadership training and opportunities for those lawyers.

**Motion:** Policy and Governance Committee motion to approve a new Leadership Institute program and to approve the creation of a three-year Leadership Institute Advisory Committee and appoint members for that committee. The board voted unanimously in favor. The motion passed. [Exhibit D]

4. Member Events

Ms. Reeves presented information about combining three annual member events—pro bono fair, awards luncheon and 50-year member luncheon—into a single reception celebrating pro bono, awards, and 50-year members. The purposes of this change are to: better align these member events into the bar’s mission; create revenue opportunities through an OSB Bulletin special issue celebrating Oregon lawyers, and; save money and staff time.

Mr. Bachofner expressed concern that turning the 50-year member luncheon into a reception and combining it with other events would not give those members the recognition that they are used to and may not be well-received.

Ms. Rice and Ms. Pulju explained that there would be a greater number of people that would get the recognition and the speeches because it would go to 19,000 members in the Celebrating Oregon Lawyers special Bulletin Issue.

Ms. Reeves and Ms. Costantino explained the networking and recognition were the two most important parts of these events and that the consolidation of these events would maintain both of these elements.

**Motion:** Policy and Governance Committee motion to consolidate the OSB 50-year luncheon, Annual Awards luncheon, and Celebrate Pro Bono event into a single reception. Mr. Andries, Mr. Boise, Ms. Costantino, Mr. Foster, Ms. Kamron Graham, Mr. Grant, Mr. Gratchner, Ms. Han, Mr. Medina, Ms. Reeves, Ms. Rice, Ms. Rohner Mr. Rondeau, Ms. Rossi, Mr. Wade, Ms. Denning, Ms. Cooke, Mr. Hesbrook voted in favor. Mr. Bachofner voted against. The motion passed.
5. Section Sunsetting

Ms. Reeves presented information about which sections are subject to sunset for consistently not meeting the minimum requirements set forth in the Standard Section Bylaws, Article XIII, Section 2. Three (3) sections currently have fewer than 100 members: Admiralty has 38 members; Aviation has 59 members, and; Anti-Trust has 97. The Admiralty Law Section has not conducted a CLE since 2017. The Aviation Section co-sponsors one CLE every other year, and the Antitrust Section does one CLE program a year. [Exhibit E]

**Motion:** Policy and Governance Committee motion to approve its recommendation to sunset the Admiralty and Aviation Law sections, and to give the Antitrust, Trade Regulation section one (1) year to get three more members to be in compliance with Standard Section Bylaw Article XII, Section 2. The board voted unanimously in favor. The motion passed.

Ms. Reeves noted that the Admiralty Section has money left in their section account and the Board will need to decide what to do with those funds.

**Motion:** Policy and Governance Committee motion to give the Admiralty Section the option to recommend a particular use of its remaining funds; if the section does not respond, donate the remaining funds to the Campaign for Equal Justice.

Mr. Andries suggests that the Aviation Section have the same opportunity as the Admiralty Section with respect to remaining section funds.

**Motion:** Mr. Andries moved and Mr. Bachofner seconded to give both the Admiralty and the Aviation Sections the option to recommend a particular use of its remaining funds; if the section does not respond, donate the remaining funds to the Campaign for Equal Justice. The board voted unanimously in favor. The motion passed.

6. Revision to OSB Mission Statement

Ms. Reeves presented information about changes the board adopted to its functions in 2019. Effective January 1, 2020, the State Bar Act will reflect the new strategic functions. In order to align the bar’s mission with its statutory mandate, the committee recommends amending the OSB mission as follows:

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

**Motion:** Policy and Governance Committee motion to approve the proposed amendment to the OSB mission as set forth above. The board voted unanimously in favor. The motion passed.

B. Public Affairs Committee [Mr. Foster]

1. Adopt 2020 Legislative Priorities and Guidelines

Mr. Foster presented the 2020 legislative priorities and guidelines. [Exhibit F]
Ms. Grabe explained that these were changed in the 2019 session but have remained the same since then.

Ms. Brown expressed concerns about the phrase “citizens of the state” and requested an amendment to that wording, if possible.

**Motion:** Mr. Grant moved and Ms. Graham seconded to amend 2020 Legislative Session Guidelines #4 to state “Improve the ability of attorneys to competently serve the interests of the people of Oregon.” The board voted unanimously in favor of the amendment.

Ms. Graham would like to replace “people of Oregon” to “people in Oregon.” The Legislative Session Guidelines would read, “Improve the ability of attorneys to competently serve the interests of the people in Oregon.”

**Motion:** Mr. Grant moved and Ms. Graham seconded to approve this second amendment. The board voted unanimously in favor. The motion passed.

**Motion:** Public Affairs Committee motion to adopt the 2020 Legislative Priorities and the 2020 Legislative Guidelines as amended above. Mr. Bachofner, Mr. Boise, Ms. Costantino, Ms. Cooke, Ms. Denning, Ms. Graham, Mr. Foster, Mr. Grant, Mr. Gratchner, Mr. Hesbrook, Ms. Han, Mr. Medina, Ms. Reeves, Ms. Rice, Ms. Rohner, Mr. Rondeau, Ms. Rossi, and Mr. Wade, voted in favor of the committee motion. Mr. Andries abstained. The motion passed.

2. General Legislative Update for 2020

Mr. Foster gave a general legislative update.

**C. Budget & Finance Committee [Mr. Wade]**

1. Approve Section Waiver Requests

Mr. Wade presented information outlining those sections that are requesting waivers of the less than 2 year of membership fees. [Exhibit G]

**Motion:** Budget & Finance Committee motion to approve section waivers for one year for the following sections: International Law, Health Law, Indian Law, and Debtor/Creditor Law. The board voted unanimously in favor. The motion passed.

2. Sustainability Report

Mr. Wade presented information regarding the Sustainability Report. [Exhibit H]

**Motion:** Budget & Finance Committee motion to accept the report. The board voted unanimously in favor. The motion passed.

**D. Board Development Committee [Mr. Bachofner]**

1. Appointments to various OSB Committees and Councils
Mr. Bachofner presented the Board Development Committee recommendations for appointment as set forth in the memorandum. [Exhibit I]

Motion: The Board Development Committee moved to approve the appointments to the committees as outlined in the exhibit. Mr. Andries, Mr. Bachofner, Mr. Boise, Ms. Costantino, Ms. Kamron Graham, Mr. Grant, Mr. Gratchner, Mr. Medina, Ms. Reeves, Ms. Rice, Ms. Rohner, Mr. Rondeau, Mr. Wade, Ms. Denning, Ms. Cooke, and Mr. Hesbrook voted in favor of the committee motion. Mr. Foster, Ms. Rossi and Ms. Han abstained. The motion passed.

6. Professional Liability Fund [Ms. Bernick]

A. General Update

Ms. Bernick presented information regarding the PLF. [Exhibit J]

B. Financial Update

Ms. Bernick presented a financial update. [Exhibit K]

C. Approval of all PLF Coverage Plans

Ms. Bernick presented information regarding the PLF Coverage plans. [Exhibit L]

Motion: Mr. Rondeau moved and Ms. Reeves seconded the motion to approve the PLF Coverage Plans. Mr. Boise, Ms. Costantino, Mr. Foster, Ms. Graham, Mr. Grant, Mr. Gratchner, Ms. Han, Mr. Medina, Ms. Reeves, Ms. Rice, Ms. Rohner, Mr. Rondeau, Mr. Wade, Ms. Denning, Ms. Cooke, and Mr. Hesbrook voted in favor of the motion. Mr. Andries and Mr. Bachofner abstained. The motion passed.

7. OSB Committees, Sections, Councils and Divisions

A. Legal Services Program Committee [Ms. Baker]

1. Legal Aid Strategic Planning Committee recommendation for disbursement of cy pres funds

Ms. Baker presented information regarding the cy pres funds and the Legal Services Program Committee’s recommendation from the Legal Aid Strategic Planning Committee recommendation for disbursement. [Exhibit M]

Motion: Budget and Finance Committee motion to accept the Legal Aid Strategic Planning Committee recommendation for disbursement of the cy pres funds. The board voted unanimously in favor. The motion passed.

Motion: Budget & Finance Committee motion to hire a professional fund manager for the cy pres funds. The board voted unanimously in favor. The motion passed.

B. Client Security Fund Committee [Ms. Hollister]

1. Recommendation regarding claims cap and reserve.

Ms. Hierschbiel presented the CSF Committee letter regarding the request to change the cap from $50,000 to $100,000 and reserve from $1 million to $1.5 million for the client security fund. The CSF
Committee recommended that this claim cap increase apply only to misconduct occurring on or after January 1, 2022. [Exhibit N]

Mr. Wade said that the CSF fee and licensing fee will have to be increased in 2021. Ms. Reeves noted that the D&I assessment will also be up for renewal in 2021.

Mr. Foster noted the importance of protecting the public.

Mr. Bachofner agreed that the bar’s primary purpose is to protect the public, but noted that these recommendations will likely require a significant CSF assessment increase, at a time when the license fee will be increased as well.

Mr. Gratchner said conceptually it is the right thing to do but the timing and impact of it may anger the membership with all these raised fee. Is there a way to stagger the fees to not have such an impact?

Ms. Hierschbiel said that the CSF Committee did consider phasing in.

Mr. Hunt talked about the importance of taking care of the public and if that requires raising the fees, then we should do that.

Mr. Andries asked whether there a cap on the total number of awards. Ms. Hierschbiel said no there is not under the current rules. Mr. Grant said that the payment of claims are discretionary. Mr. Boise said that he does not want the public to lose faith in us. He says the $100,000 cap is important.

Mr. Andries said that the stakeholders are the potential victims and the legislative charge is to protect the public. Mr. Grant said it is important to get the membership engaged in this discussion so they can grasp the change. The reserve cap and payment cap are two different items and should be treated as such. Can they raise payment cap now and the reserve cap later?

Mr. Wade said that raising the cap requires more money in reserve to ensure we have the funds to pay the claims.

Ms. Hierschbiel noted that the CSF Committee did contemplate something of a phase in. Only claims that arise after January 2022 would be eligible for payment at the increased level of $100,000. Therefore, the reserve would not need to be increased immediately.

Ms. Rohner asked how the board can make this decision without the Budget and Finance committee talking about the impact. Mr. Wade got up at the HOD and told the membership what the fees would look like in 2021. To change that now would be a bad choice.

Mr. Medina asked if we could hold the $50 fee until we hit the reserve.

**Motion:** Ms. Rice moved and Ms. Graham seconded to approve raising the cap to $100,000 for claims arising after January 1, 2022 and increasing the CSF reserve from $1 million to $1.5 million. They withdrew the motion.

**Motion:** Mr. Gratchner moved and Mr. Bachofner seconded to send the CSF Committee recommendations to increase the cap and reserve to the Budget and Finance Committee for its review and evaluation of the budgetary impact. The board voted unanimously in favor. The motion passed.
Motion: Mr. Andries moved and Mr. Rondeau seconded to send the CSF Committee recommendation to seek passage of a Third Party Payee Notification law to the Public Affairs Committee to determine whether it should be a legislative priority for the 2021 legislative session. The board voted unanimously in favor. The motion passed.

C. Oregon New Lawyers Division Report [Mr. Sturm and Ms. Browning]

Ms. Browning and Mr. Sturm presented information about the ONLD Executive Committee’s activities for the year and its award winners. [Exhibit O]

D. MCLE Committee [Ms. Hierschbiel]

   1. Proposed Amendments to the Statement of Purpose for the MCLE Rules and Regulations and to MCLE Rule 1 to add a definition of equity

Ms. Hierschbiel presented the MCLE Committee’s proposed amendments to the Statement of Purpose for the MCLE Rules and Regulations and to MCLE Rule 1. [Exhibit P]

Motion: Mr. Grant moved and Mr. Wade seconded to approve the proposed amended Statement of Purpose for the MCLE Rules and Regulations and the proposed amendment to MCLE Rule 1 to add the definition of equity. The board voted unanimously in favor. The motion passed.

8. Closed Sessions – CLOSED Agenda—

   A. Executive Session
      (pursuant to ORS 192.660(2)(f) and (h) and ORS 192.690(1))

      No discussion occurred for the Closed Agenda.

9. Consent Agenda

   A. Report of Officers & Executive Staff
      1. Disciplinary Counsel Status Report
      2. Project No. 18-08, Amending OSB Formal Op No. 2005-2 (remove reference to RPC 7.3)
      3. MCLE Rule 9 Amendment, Updating Waiver & Exemptions
      4. MCLE Regulation 5.200, Credit for Committee & Council Service

   B. Client Security Fund Committee
      1. CSF Financial Reports and Claims Paid
      2. Claims to Approve or Review

   C. Approve Minutes of Prior BOG Meetings
      1. Open and Closed Sessions September 27, 2019
      2. Open Session for November 1, 2019
      3. Nominating Committee Minutes
Motion: Mr. Andries moved and Mr. Boise seconded the motion to approve the consent agenda Mr. Andries, Mr. Bachofner, Mr. Boise, Ms. Costantino, Ms. Kamron Graham, Mr. Foster, Mr. Grant, Mr. Gratchner, Ms. Han, Mr. Medina, Ms. Rice, Ms. Rohner, Mr. Rondeau, Ms. Rossi, Mr. Wade, Ms. Denning, Ms. Cooke, and Mr. Hesbrook voted in favor. Ms. Reeves abstained. The motion passed.

10. Good of the Order (Non-Action Comments, Information and Notice of Need for Possible Future Board Action)
   A. Correspondence
   B. Articles of Interest
OSB Board of Governors

STATUTORY CHARGE

The OSB Board of Governors (BOG) is charged by the legislature (ORS 9.080) to “at all times direct its power to the advancement of the science of jurisprudence and the improvement of the administration of justice.” The Oregon State Bar (OSB) is also responsible, as an instrumentality of the Judicial Department of the State of Oregon, for the regulation of the practice of law. As a unified bar, the OSB may use mandatory member fees only for activities that are germane to the purposes for which the bar was established.

MISSION

The mission of the OSB 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.

STRATEGIC FUNCTIONS

The BOG has translated the statutory charge and mission into three core functions that provide overall direction for OSB programs and activities:

FUNCTION #1 – REGULATE THE LEGAL PROFESSION AND IMPROVE THE QUALITY OF LEGAL SERVICES

GOAL: Protect the public by ensuring competence and integrity and promoting professionalism in the legal profession.

FUNCTION #2 – SUPPORT THE JUDICIARY AND IMPROVE THE ADMINISTRATION OF JUSTICE

GOAL: Protect and advance the quality, integrity, and impartiality of the judicial system.

FUNCTION #3 – ADVANCE A FAIR, INCLUSIVE, AND ACCESSIBLE JUSTICE SYSTEM

GOAL: Foster trust in, respect for, understanding of, and access to the justice system.

FIDUCIARY ROLE

In order to advance the mission and achieve its goals, the BOG must ensure that the OSB is effectively governed and managed, and that it has adequate resources to maintain the desired level of programs and activities.

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1 Webster's Dictionary defines jurisprudence as the "philosophy of law or the formal science of law." The "administration of justice" has been defined in case law variously as the "systematic operation of the courts," the "orderly resolution of cases," the existence of a "fair and impartial tribunal," and "the procedural functioning and substantive interest of a party in a proceeding."

2 The OSB’s responsibilities in this area are clearly laid out in the Bar Act, ORS Chapter 9.

3 In Keller v. State Bar of California, 499 US 1,111 Sct 2228 (1990), the US Supreme Court held that an integrated bar’s use of compulsory dues to finance political and ideological activities violates the 1st Amendment rights of dissenting members when such expenditures are not "necessarily or reasonably incurred" for the purpose of regulating the legal profession or improving the quality of legal services.
AREAS OF FOCUS FOR 2019

1. Follow-up on Futures Task Force items
   a. Determine whether to create an admissions path for individuals who do not attend law school but who pass the bar exam.
   b. Determine whether to create a limited license to practice law for paraprofessionals.
   c. Consider recommendations from the Referral Fees Committee.

2. Conduct Program Review of Referral and Information Services

3. Review the OSB governance model, strategic functions, programs, activities and communications to ensure they are aligned with the bar’s public service mission.

4. Evaluate potential forms of revenue and cost-savings for 2020 budget and beyond.

5. Continue investment to upgrade our I/T footprint (hardware and software) to attain modern compatibility, low-cost efficiency and ease of use, and improved data security.

6. Consider changes to member fee structure to provide greater equity.

7. Engage and expand the Citizens Campaign for Judicial Funding to bolster support for adequate funding for Oregon’s court system.

OREGON STATE BAR
Board of Governors Agenda

Meeting Date: November 23, 2019
From: Policy & Governance Committee
Re: Proposed Amendment to OSB Bylaws on Rules of Professional Conduct

Action Recommended

Waive the one meeting notice requirement and amend OSB Bylaw Article 7.5 regarding travel expense reimbursements.

Proposed Amendment to OSB Bylaws

Subsection 7.503 Travel Reimbursements

Any person who is entitled to a travel reimbursement pursuant to this section may retain travel awards, mileage awards, credit card awards and other awards or benefits accrued while in the conduct of the person’s official duties, as part of their reimbursement of expenses and official compensation. As to members of the Board of Governors, this subsection shall only apply to the President and President-Elect in office as of September 27, 2019, and members of the Board of Governors appointed or elected after September 27, 2019.

This proposed bylaw change would allow persons who obtain travel reimbursements to:

(1) retain travel awards obtained in the course of official travel (e.g., travel vouchers, frequent flyer miles or hotel loyalty points); and

(2) retain credit card benefits (e.g., miles, points, cash back) obtained when using a personal credit card for official duties that is later reimbursed by the bar.

The bylaw would not apply to reimbursement requests aside from travel.
OREGON STATE BAR
Board of Governors Agenda

Meeting Date: November 23, 2019
From: Policy & Governance Committee
Re: Proposed Amendment to OSB Bylaws on Rules of Professional Conduct

Action Recommended

Waive the one meeting notice requirement and amend the OSB Bylaws to provide for annual Oregon Supreme Court review of proposed amendments to the Rule of Professional Conduct.

Proposed Amendment to OSB Bylaws

On January 11, the board adopted areas of focus for 2019, which include a commitment to review the bar’s governance model, strategic functions, programs, activities and communications to ensure they are aligned closely with the bar’s public service mission.

To that end, the board sought—and obtained—amendments to the State Bar Act that clarify the Oregon Supreme Court’s inherent authority to regulate the practice of law in Oregon. Section 6 of SB 358 (2019), which goes into effect on January 1, 2020, provides that the Court retains authority to “adopt rules...relating to the regulation of the practice of law, that are deemed necessary by the Court” despite any procedural requirements provided in the Bar Act.

In order to implement this statutory provision, the committee recommends that the board waive the one meeting notice requirement and amend the bylaws to add a new Section 2.9 that reads as follows:

Section 2.9 Annual Supreme Court Review of Oregon Rules of Professional Conduct

In recognition of the Oregon Supreme Court’s inherent authority to regulate the practice of law in Oregon, on or before January 31 of each year, the Board shall submit any proposals to amend the Oregon Rules of Professional Conduct that were considered, but not adopted, in the prior calendar year to the Court for its review and consideration.
OREGON STATE BAR
Board of Governors Agenda

Meeting Date: November 23, 2019
From: Policy & Governance Committee
Re: Leadership Institute

**Action Recommended**

1) Approve a new Leadership Institute program.

2) Approve the creation of a three-year Leadership Institute Advisory Committee and appoint members for that committee.

**Background**

Last November, the Board of Governors approved the creation of a planning committee to create and develop a leadership institute with a focus on retention of non-dominant culture attorneys and diversifying the leadership in the legal community.

The planning committee was composed of members from stakeholder groups, including affinity bars, the Oregon Judicial Department, OSB Board of Governors, private practice and government attorneys. Committee members were Justice Lynn Nakamoto, Judge Ramón Pagán, Colin Andries, Derily Bechthold, Kamron Graham, Becky Ivanoff, Kiosha Ford, Parna Mehrbani, Gabriela Sanchez, and was chaired by Jonathan Puente.

For a year, the committee studied other jurisdiction’s leadership programs that targeted non-dominant culture attorneys, including both mandatory and voluntary bars, and reviewed the OSB’s Leadership Academy which was sunset in 2010. The strengths, methods, and curricula of those programs were considered to address leadership goals and gaps in the Oregon legal community and develop a leadership institute to meet those needs.

The Policy & Governance Committee recommends that the Board approve creation of the Leadership Institute as envisioned in the attached documents. Further, the committee recommends that the board establish a Leadership Institute Advisory Committee of no less than eight and no more than twelve members to be appointed for a three-year period in order to implement the program in accordance with its mission. At the end of the three-year period, the committee will report to the board about the program’s performance and whether a committee remains necessary to fulfill the program goals.
Finally, the committee recommends that the following individuals be appointed to serve on the Leadership Institute Advisory Committee, with additional individuals appointed by the Board through its regular appointment process:

Hon. Lynn R. Nakamoto, Oregon Supreme Court, Salem
Rebecca Ann Ivanoff, University of Oregon School of Law, Eugene
Hon. Mustafa Kasubhai, United States District Court of Oregon, Eugene
Hon. Adrienne C. Nelson, Oregon Supreme Court, Salem
Román D. Hernandez, Troutman Sanders LLP, Portland
Gabriela Sanchez, Lane Powell, Portland
Mary Watanabe, Partners in Diversity Executive Director
BOG Liaison

Attachments:  Mission of the Leadership Institute
Proposed curriculum
Advisory committee charge
Institute application detailing the program guidelines
Program scoresheet
Leadership Institute Mission and Goals

**Mission**
The Leadership Institute aims to serve the legal profession and the Oregon community by enhancing the personal development and cultivating the leadership skills of lawyers from diverse backgrounds.

**Goals**
1. Cultivating fellows’ personal development, confidence, and resiliency.
2. Enhancing fellows’ practical leadership skills.
3. Serving the legal profession and the Oregon community by increasing awareness regarding ethical, professional, and community service opportunities.
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<tr>
<th>DATE</th>
<th>LOCATION (TENTATIVE)</th>
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<tr>
<td>September</td>
<td>Tigard</td>
<td><strong>Session 1: Orientation &amp; Leadership Assessment</strong></td>
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<td>(Friday – Saturday)</td>
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<td>Orientation and expectation setting; learn about the OSB; “Strength finder” type exercise; establish a standard model for discussing leadership styles; help participants understand their default leadership style; provide generalized strategies for dealing with the leadership styles of others.</td>
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<td>October</td>
<td>Portland</td>
<td><strong>Session 2: Career Planning</strong></td>
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<td>(Friday)</td>
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<td>How to be successful in a firm environment, in a nonprofit environment, in a government environment, and running own firm. Different types of firm partnerships – what they are, how to identify which type to pursue, how to plan and negotiate these tracks, etc.</td>
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<td>November</td>
<td>Portland</td>
<td><strong>Session 3: Developing Leadership Skills; Board &amp; Committee Work</strong></td>
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<td>(Friday)</td>
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<td>Gaining leadership experience outside of job – as preparation for a more formal leadership role within job. i.e. how to run and manage a board.</td>
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<td>January</td>
<td>Tigard</td>
<td><strong>Session 4: Professionalism (half day); Health &amp; Wellness (half day)</strong></td>
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<td>(Friday)</td>
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<td>Civility; dealing with difficult colleagues/supervisors/situations; dealing with microaggressions.</td>
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<tr>
<td>February</td>
<td>Salem</td>
<td><strong>Session 5: Road to the Bench; Legislative Work</strong></td>
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<tr>
<td>(Friday)</td>
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<td>Road to the bench; Legislative process; running for office.</td>
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<td>March</td>
<td>Portland</td>
<td><strong>Sessions 6 &amp; 7: Practical Leadership Skills</strong></td>
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<td>(Friday – Saturday)</td>
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<td>Online presence; executive presence; participating in meetings; how to show up; crisis management; board and team management; interview practice; book-building.</td>
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<tr>
<td>April</td>
<td>Portland</td>
<td><strong>Session 8: Access to Justice &amp; Community Service</strong></td>
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<td>(Friday)</td>
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<td>Obligations to do pro bono work; access to justice for underrepresented communities; legal concerns for different communities.</td>
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<tr>
<td>May</td>
<td>Salem</td>
<td><strong>Session 9: Cohort recognition &amp; Project Presentation</strong></td>
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OREGON STATE BAR
Board of Governors Agenda

Meeting Date: November 23, 2019
From: Policy and Governance Committee Chair
Re: Section Sunsetting

Action Recommended

Approve the Policy and Governance Committee’s recommendation to abolish or merge sections based on compliance with Standard Section Bylaw Article XII, Section 2.

Background and Discussion

The Board of Governors began discussing section related policies in 2015 with the goal of ensuring the OSB support to sections was efficient and effective. One area of focus has been the high number of sections and the staff resources necessary to support all 43 sections. Budget & Finance Committee discussed this issue and expressed concern that some sections were consistently not meeting the minimum requirements set forth in Standard Section Bylaw, Article XII, Section 2:

Standard Section Bylaws, 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. 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 report.

If the Section fails to meet any of the above minimum requirements, has less than 100 members, or does not sponsor or co-sponsor at least one CLE program every two years, it is subject to restructuring or sunsetting by the Board of Governors, pursuant to OSB Bylaw 15.2.

The 100-member threshold requirement has been an area of concern throughout the program review process. As part of the ongoing communication with section leaders, this
concern was highlighted and the attached feedback was received from Donald Bowerman (Aviation Law), Judy Parker (Administrative Law), Stuart Smith (Aviation Law), Consumer Law, Disability Law, and Diversity Section.

Three sections currently have less than 100 members. OSB Bylaw 15.2 provides the Board the option to “merge, reorganize or abolish sections at the request of affected sections or as the Board deems appropriate. Factors the Board must consider include, but are not limited to, the requirements outlined in Standard Section Bylaws, Article XII, Section 2.”

Admiralty Law Section

The Admiralty Section was established in 1978 and was one of the first sections created. Section membership has remained the same for the last several years and currently sits at 38 members. The Section’s executive committee traditionally holds one or two meetings each year but they have not yet met in 2019. The section does not publish a newsletter, have a list serve or website, and has not conducted a CLE program since December 2017. The section has just over $3,300 in its account which is nearly six years of membership fees.

Antitrust & Trade Regulation Section

The Antitrust & Trade Regulation Section was established in 1978. Over the last several years the section’s membership has continued to decline slowly. This year 97 members joined the section. The executive committee meets monthly and normally sponsors one CLE program a year. The section does not produce a newsletter but does have a list serve and website. However, the list serve is rarely used and the website is extremely outdated. The section has a fund balance of nearly $6,700 which more than 2.5 years of membership dues revenue.

The executive committee discussed the BOG’s recent policy changes during their April and May meetings. As part of this discussion, members of the executive committee indicated if the BOG decided to merge them with another section, Consumer Law would be the most natural fit based on overlap between antitrust and consumer protection issues.

Aviation Law Section

The Aviation Section was established in 1985 and currently has 59 members. The executive committee holds monthly meetings and every other year they co-sponsor a CLE program with the King County Bar Association’s Aviation Section. The section does not offer their members a list serve, website, or newsletter but they have traditionally hosted a section dinner and social at the end of each year. The section has approximately $1,000 which they plan to use for their annual dinner and social event this December.

Although it is rare, there is precedence for the BOG to eliminate a section. In 2011 the Law Practice Management Section was sunset based on a recommendation from the executive committee who realized the section had fulfilled its mission and was no longer necessary. When the BOG approved sunsetting the section, they directed staff to send remaining section funds to the PLF Practice Management Advisors based on the mission alignment.
Options

Merge or sunset the Admiralty, Antitrust & Trade Regulation, and Aviation Sections and determine how to handle any remaining section funds.

Do nothing and allow the three sections to continue as-is for 2020.

Identify other areas of concern for staff to bring back additional recommendations.
November 27, 2018

Helen Hiershbiel, Chief Executive Officer
Oregon State Bar
PO Box 231935
Tigard, OR 97281-1935

Re: Aviation Section

Dear Helen,

I have been a long-time member of the Oregon State Bar, having served on the Board of Governors from 1976-1979, and six years on the Board of Directors of the Professional Liability Fund. I was an enthusiastic supporter of sections when they were first considered and have been pleased with the growth and substance of the section activities. At the time of their founding, my understanding was that the sections would be, for the most part, autonomous and self-regulating; as with most institutions, however, the bureaucratic growth is too tempting, and control ensued.

I have been the chair of our section two times. We consist of lawyers with very specific and compelling interests in aviation. For many years, we have provided adjunct professors at Lewis and Clark Law School; we participate in the Northwest Aviation Law Annual Aviation Law seminars, together with a similar group from the state of Washington. We encourage like-minded law students to participate in our monthly meetings and share current trends in aviation regulations, events, and planning.

We have enjoyed our interaction with the OSB's liaison member, but if the bar is concerned about the time or expense associated with our section, I assure you that we can and will exist with or without the Bar's blessing.
Correspondence to Helen Hiershbiel
Re: Aviation Section
November 27, 2018

Although we’ve requested input in the past, we have received no persuasive basis to change our mission, our interest, or our activities. We enjoy each other’s company and object to further tinkering by the OSB. On behalf of the aviation section, we welcome your comments.

Very truly yours,

[Signature]

DONALD B. BOWERMAN

DBB/ijm
cc  Ross Neher, Chairperson, OSB Aviation Law Section
cc  Rod Boutin, Chair-Elect, OSB Aviation Law Section
cc  Sarah Hackbart, Bar Liaison, OSB Aviation Law Section
Hi Dani! Thank you for this thorough email.

I would like to offer two thoughts on the points below.

First, as to the public meetings requirements that would prohibit executive committee members from voting electronically, I would urge a work-around. I am one of the members of the legislative subcommittee for the Admin section and can tell you that having members be able to get together with 72 hours notice when we have a pending bill is near to impossible. I am copying Matt Barber, our section's vice-chair and the other legislative sub member, to attest.

Second, I am not a member of any sections which have fewer than 100 members. But I know they exist. And I feel that groups ebb and flow based on the economy, public interest, involvement of members, and sheer cool kid status. I think that having some sections with fewer members doesn't mean that it isn't as valid as a larger section just by numbers. Practicality means there won't be as many members in the admiralty section as the construction law section - but it still offers an avenue for meeting together and for sharing best practices, etc. I would urge the Board to reject folding sections based on the number of folks in such a section. I feel that the bar's mission is to encourage this community and build it rather than force us to be orphans, out in the world without a network to support us.

Judy Parker

---

Judy Parker
J.A. Parker Law Firm LLC
The Winemakers' Lawyer
503-862-8583
judy@winemakerslawyer.com
winemakerslawyer.com

On 2019-05-03 15:36, Danielle Edwards wrote:
> [1]
> >
> > Judith,
> >
> > The Board of Governors (BOG) is engaged in an ongoing review of all
> > bar programs and services to ensure each is aligned with the bar's
> > mission and operating as efficiently as possible. As a result of the
> > board's review of OSB Sections, I have a number of updates to share
> > with you. The first portion of this email includes several policy
> > reminders, followed by informational items highlighting a few changes
> > to section policies the BOG has already approved. The final portion of
> > this email describes pending bylaw changes the BOG will consider
> > further at its June meeting. As a member of the Administrative Law
Danielle Edwards

From: Stuart Smith <aviationlawsmith@gmail.com>
Sent: Tuesday, May 07, 2019 11:30 AM
To: Danielle Edwards
Subject: RE: OSB Section Policy Changes - OSB 44209

Categories: Section Policy Feedback

Danielle,

Thank you for your email.

The Board of Governors proposed policy regarding sections runs counter to the stated purpose for sections and is not supported by the stated rationale for disbandment. Section 15.1 states: “Sections are an integral and important part of the Bar. Sections are intended to provide bar members who share particular interests an opportunity to develop and improve skills and to provide a forum for communication and action in matters of common interest.” The Aviation section is well over 50 years old, and while small in number, serves an important function in our legal community. First, the size of the section is representative of the number of lawyers who practice aviation law – it is a small number. Because it is a small number, our ability to meet, communicate and share ideas is critically important. Unlike aviation attorneys in the vast majority of the other states, we are a collaborative bar – the way lawyers are actually supposed to work together. We know each other. We trust each other. And we even like each other. Plaintiffs and defendants receive fair treatment because the lawyers actually know each other and get along with each other. What other bar can say that? Disbandment is the first step in the destruction of these critically important relationships.

The OSB provides only 2 reasons for eliminating sections; (1) the cost of providing services, and (2) section inability to operate with sufficient volunteers if too small. As to the first, If the fees collected by the bar are insufficient to cover the Oregon Bar’s expenses in providing services to sections, either the OSB should reorganize to provide services more efficiently, examine the services provided to eliminate those that do not support the sections, or raise the fees charged to the sections. All of those options should be examined carefully as a first step, and there is no indication that the bar has made that inquiry. As to a lack of volunteers, that has never been an issue for the Aviation Section. We are active and engaged participants. Those two reasons do not support the Board of Governor’s decision.

Please feel free to pass these comments on to the BOG.

Cordially yours,

Stuart W. Smith

From: Danielle Edwards <dedwards@osbar.org>
Sent: Friday, May 03, 2019 3:36 PM
To: aviationlawsmith@gmail.com
Subject: OSB Section Policy Changes – OSB 44209
Thank you Danielle. The Consumer Law Section urges the BOG not to implement the proposed amendments to Bylaws Article 12 adding a 100-section-member requirement and to Article 15 eliminating the 50% subsidy based on a section’s size and fund balance.

First, the Section believes there is no magic number of members and that fewer than 100 interested members can justify a section’s existence. We believe the requirements that are already placed on a section ensure that a section is active and does not deserve sunsetting. The addition of a minimum-one-CLE-every-two-years requirement would further ensure that a section is sufficiently active to justify its existence, although it would seem that there could be other types of significant activities that also would justify that existence.

Second, the Section also opposes the amendment to Article 15 Subsection 15.400 tying a section’s per capita fee subsidy to its fund balance. It would not achieve its stated goal to encourage sections to spend membership dues during the year they are raised. At least our section already spends more than the amount of membership dues raised each year on per capita fees and Section activities. If we are able to increase our fund balance, it is due to successful activities, such as CLEs, which should be encouraged, not penalized.

The amendment also would hamper multi-year efforts to build up funds for more, larger, and/or more impactful expenditures such as sponsorships, scholarships, and CLEs with national speakers. In effect, it would penalize the most active sections and discourage future activity. Finally, the amendment would discriminate against smaller sections, which would be impacted at much lower fund balances than larger sections.

In any event, any change should not be retroactive and should apply only to a section’s future failure to spend at least the amount of its membership dues during the year; and only to the extent of that failure.

Thank you for sharing our concerns about these amendments with the BOG.

Best,
Matt Kirkpatrick
Chair - Consumer Law Section

Matthew S. Kirkpatrick
Attorney at Law

Kirkpatrick Law, LLC
7505 SE 18th Ave.
Portland, OR 97202
Telephone: 503-901-8739
Facsimile: 503-894-7846
MattK@MKirkpatrickLaw.com | MKirkpatrickLaw.com
June 7, 2019

Danielle Edwards  
Director of Member Services  
16037 SW Upper Boones Ferry Rd.  
Tigard, OR 97224

Re: Comments on Proposed Changes to Section Bylaws

Dear Ms. Edwards:

We’re writing on behalf of the Disability Law Section to offer you our feedback on the Board of Governors’ (BOG) proposed revisions to section bylaws.

As a section with a membership that often hovers just above 100, we could easily be affected by the proposed changes to the membership threshold. We are home to a wide variety of practitioners of disability law, and we bring a unique value and perspective to the Oregon State Bar. Many of our members work to preserve the civil rights of people with disabilities to live in communities of their choosing and receive the services they need to remain healthy, safe, and included. Others work to help ensure that employees with disabilities receive the accommodations they need to be successful in their jobs; and many work to help clients receive Social Security and other essential public benefits. We are also home to many attorneys who themselves experience disability.

We have offered unique CLE topics such as Social Security practice, representing clients with cognitive disabilities, and making a law practice more inclusive.

According to the Centers for Disease Control and Prevention (CDC) one in 4 U.S. adults – 61 million Americans – have a disability that impacts major life activities. We are made up of practitioners who serve this large and underrepresented population. We advocate for minority rights and provide access to justice. Losing a section like ours would mean losing a voice for people who are already underrepresented.

Small sections like ours offer unique perspectives and are often homes for attorneys who represent clients who could not otherwise have access to justice. We ask that the BOG consider the value of our section and other specialty and minority bar sections as it contemplates changes to the bylaws. We believe that bar sections which focus on minority rights should be exempt from the membership threshold requirement.
The proposed changes regarding fund balances may also disparately impact smaller sections by basing the maximum account balance on membership size and dues collected yearly. This proposed formula could inadvertently punish sections which attempt to keep their section fees low. There are some costs, such as those associated with CLEs, that may be relatively fixed. We would suggest that the bylaws allow any section to keep up to $5,000 in reserve regardless of member fees collected. This would allow any section to save up for larger expenditures like CLEs, which provide a service to the broader legal community in Oregon.

We appreciate the opportunity to share our comments with you.

Sincerely yours,

The Disability Law Section
Executive Committee

Risa Davis
Chair
June 12, 2019

Board of Governors
Oregon State Bar
P.O. Box 231935
Tigard, Oregon 97281-1935

Members of the Board of Governors:

We, the members of the Executive Committee of the Diversity Section of the Oregon State Bar, write to express our concerns regarding the proposed amendments to the standard section bylaws relating to fund balances and membership thresholds. Although we support the Bar’s mission to encourage Sections to spend funds for the benefit of current members and we generally support the proposed amendments to Subsection 15.4 Dues and Article IX, Section 2—which require OSB Sections with a fund balance as of December 31 exceeding two years of section membership fees to be charged the full per member fee for the following year—we oppose the passage of those amendments without a specific exception created for Sections holding funds earmarked for large-scale events designed to benefit their sections and the broader legal community. Lastly, we urge you to oppose the proposed amendment to Article XII, Section 2, which would subject Sections with less than 100 members to restructuring or sunsetting by the Board of Governors.

The mission of the OSB Diversity Section is to promote and support diversity and inclusion within the Oregon Bar and the judiciary, to organize educational programs that facilitate constructive discussion and enhanced understanding of diversity issues, and to assist Oregon legal professionals in advancing equity in the practice of law. Our Section was born out of the first Convocation on Equality in 2001. Every ten years, our section hosts the Convocation on Equality, an event designed to explore best practices for the recruitment and retention of diverse attorneys in Oregon, benefitting our Section and the entire legal community in our state.

In furtherance of our mission, it is necessary for our Section to save funds in anticipation of this large-scale event. We currently have $19,000 held in reserve for the anticipated 2021 Convocation—representing funds leftover from the 2011 Convocation—and we anticipate raising additional funds through donations from outside stakeholders. Although we may have what the BOG views as “excessive” funds on hand, we have retained those funds for this specific decennial event fitting squarely within our mission. Accordingly, we urge the Board of Governors to carve an exception to the proposed rule for Sections that hold money for large-scale events like the Convocation. If an exception is not made, our Section’s ability to carry out its mission will be significantly impacted.

We also write to urge the Bar to reject the proposed amendment related to membership thresholds. Some of the smaller Sections provide important support for attorneys who are minorities within the legal profession and who provide needed services to unique populations in the community that are often underserved by attorneys practicing in other areas. The Disability Law Section and the Military and Veterans Law Section are two examples of smaller Sections that have membership numbers hovering near the proposed threshold. We believe it would be a tremendous disservice to
the community to lose Sections like these that provide vital support and legal services to diverse attorneys and members of our community. Accordingly, we ask you to reject this proposed amendment.

Sincerely,

OSB Diversity Section Executive Committee

<table>
<thead>
<tr>
<th>Officers</th>
<th>At-Large Members</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Rebecca Ivanoff, Chair</td>
<td>Mae Lee Browning</td>
<td>Melina Martinez</td>
</tr>
<tr>
<td>Lorelei Craig, Co-Chair-Elect</td>
<td>Ashley Carter</td>
<td>Phylis Myles</td>
</tr>
<tr>
<td>Wilson Ta, Co-Chair-Elect</td>
<td>John Haroldson</td>
<td>Hon. Melvin Oden-Orr</td>
</tr>
<tr>
<td>Tracy Frazier, Secretary</td>
<td>Kelsey Heilman</td>
<td>Sarah Sabri</td>
</tr>
<tr>
<td>Percy Wise, Treasurer</td>
<td>J.B. Kim</td>
<td></td>
</tr>
</tbody>
</table>
The Public Affairs Committee recommends that the Board of Governors adopt the 2020 Legislative Priorities and the 2020 Legislative Guidelines.

The mission of the Oregon State Bar is to serve the public interest by regulating the legal profession and improving the quality of legal services, support the judiciary and improve the administration of justice, and advance a fair, inclusive, and accessible justice system.

The Priorities and Guidelines are tools used by the Public Affairs Department to guide the Bar’s legislative efforts and advance the policy and budgetary goals set forth by the Board.

2020 Legislative Priorities

1. Support Court Funding. Support for adequate funding for Oregon’s courts.

2. Support legal services for low-income Oregonians.
   - Civil Legal Services. Legal assistance and representation for financially qualified individuals in Oregon’s civil justice system.
   - Indigent Defense. Constitutionally and statutorily required representation of financially qualified individuals in Oregon’s criminal and juvenile justice systems:
     - Ensure funding sufficient to support adequate compensation for publicly funded attorneys in the criminal and juvenile justice systems.
     - Support reduced caseloads for attorneys representing parents and children.
     - Support efforts to ensure the right to counsel for adults at the trial level in Oregon.

3. Track and engage on 2020 legislation per Oregon State Bar Legislative Guidelines.
The Public Affairs Committee is committed to serving the public interest by regulating the legal profession and improving the quality of legal services, supporting the judiciary and improving the administration of justice, and advancing a fair, inclusive, and accessible justice system. To that end, the Public Affairs Committee supports the following legislative goals:

1. Protect the public, the administration of justice and the rule of law.

2. Create meaningful access to justice and provide information about the law, legal issues, and the civil and criminal justice system.

3. Make Oregon laws more consistent and more uniform.

4. Improve the ability of attorneys to competently serve the interests of the citizens of the state.

5. Support a fair and effective criminal justice system.

6. Ensure efficient, competent, and ethical delivery of legal services.

7. Promote the protection of privileged and confidential information while promoting access and education regarding public records.

8. Provide appropriate information and assistance regarding ethical issues to legislators, especially legally-trained legislators.

9. Improve the juvenile justice system and encourage better coordination between the different components of the system.

10. Foster diversity, equity and inclusion among legal service providers and in the justice system.
OREGON STATE BAR
Board of Governors

Meeting Date: November 23, 2019
From: Budget & Finance Committee
Subject: Section Waiver Requests

We have received waiver requests of the ending balance less than 2 years of membership fees from the following sections:

<table>
<thead>
<tr>
<th>Section</th>
<th>Memb (Cur)</th>
<th>Annual</th>
<th>Threshold</th>
<th>2018 Balance</th>
<th>Yrs</th>
<th>2019 Balance (Cur)</th>
<th>Yrs</th>
</tr>
</thead>
<tbody>
<tr>
<td>International Law</td>
<td>136</td>
<td>$25</td>
<td>$6,800</td>
<td>$11,001</td>
<td>5.1</td>
<td>$7,509</td>
<td>2.2</td>
</tr>
<tr>
<td>Health Law</td>
<td>344</td>
<td>$15</td>
<td>$10,320</td>
<td>$27,107</td>
<td>5.6</td>
<td>$19,388</td>
<td>3.8</td>
</tr>
<tr>
<td>Indian Law</td>
<td>177</td>
<td>$20</td>
<td>$7,080</td>
<td>$10,429</td>
<td>3.5</td>
<td>$10,868</td>
<td>3.1</td>
</tr>
<tr>
<td>Debtor/Creditor Law</td>
<td>477</td>
<td>$35</td>
<td>$33,390</td>
<td>$51,128</td>
<td>2.9</td>
<td>$59,224</td>
<td>3.5</td>
</tr>
</tbody>
</table>

Sent: Monday, November 18, 2019 1:07 PM
Subject: OSB International Law Section waiver request

Dear Danielle,

Thank you for providing the International Law Section Executive Committee with information regarding the waiver process for sections that have not reached the designated fund balance requirements. As discussed in our meeting, the ILS is presently around $700 over our required fund balance.

We are writing to request a waiver from the BOG, in case we do not spend down the funds before the end of 2019. We are planning on working with Lewis & Clark Law School to co-sponsor a CLE on trade compliance next March, and are planning to use the funds to cover the travel and lodging for at least one (possibly two) out-of-town speakers for that event.

Please let us know if you have any questions or need additional information from us.

Thank you!

Best,
Merril
Merril A. Keane, P.C., Partner
Miller Nash Graham & Dunn LLP

Additional Note (from Keith Palevsky)
As of October 31st, the International Law section has 136 members (82 Paid and 54 Complimentary). Based upon their $25 per member section fee, the 2 year ending balance threshold is $6,800 and ending fund balance of $7,508. Provided the section follows through on their commitment to work with Lewis & Clark Law School to co-sponsor a CLE and contribute $700 toward the event(s) their plan to spend down the balance in 2020 should be sufficient to meet the balance threshold by the end of the year.
For reference, one year ago December 31, 2018, the International Law section had an ending fund balance of $11,001 which represented 5.1 years worth of membership.

OREGON STATE BAR
International Law - 818
Statement of Revenue and Expense
For the Ten Months Ending October 31, 2019

<table>
<thead>
<tr>
<th>Description</th>
<th>October 2019</th>
<th>October 2019 Budget</th>
<th>% of October Prior Year</th>
<th>October 2019 YTD</th>
<th>October 2019 Prior Year</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>REVENUES</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Membership Fees</td>
<td>25</td>
<td>2,059</td>
<td>1,500</td>
<td>$11,001</td>
<td>$1,500</td>
</tr>
<tr>
<td>Sponsorship</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Registrations - Conferences/Seminars</td>
<td>225</td>
<td>445</td>
<td>500</td>
<td>100</td>
<td></td>
</tr>
<tr>
<td><strong>Total Revenue</strong></td>
<td>250</td>
<td>2,405</td>
<td>2,600</td>
<td>100</td>
<td>2,000</td>
</tr>
<tr>
<td><strong>EXPENSES</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Committee - Executive</td>
<td>78</td>
<td>4,450</td>
<td>250</td>
<td>116</td>
<td></td>
</tr>
<tr>
<td>Computer - Internet / Web</td>
<td>100</td>
<td></td>
<td>100</td>
<td>0.5%</td>
<td></td>
</tr>
<tr>
<td>Conferences / Seminars Expense</td>
<td>362</td>
<td>402</td>
<td>300</td>
<td>134.0%</td>
<td></td>
</tr>
<tr>
<td>Luncheon Expense</td>
<td>80</td>
<td></td>
<td>80</td>
<td>0.0%</td>
<td></td>
</tr>
<tr>
<td>Sponsorships</td>
<td>5,000</td>
<td></td>
<td>5,000</td>
<td>396</td>
<td></td>
</tr>
<tr>
<td>Telephone - Conference Calling</td>
<td>36</td>
<td>42</td>
<td>100</td>
<td>42.4%</td>
<td></td>
</tr>
<tr>
<td>OIS Support Services Assessment</td>
<td>56</td>
<td>1,088</td>
<td>000</td>
<td>136.0%</td>
<td>40</td>
</tr>
<tr>
<td>Credit Card Fee</td>
<td>5</td>
<td>5</td>
<td>0</td>
<td>0.0%</td>
<td></td>
</tr>
<tr>
<td><strong>Total Expense</strong></td>
<td>547</td>
<td>3,987</td>
<td>2,330</td>
<td>81.5%</td>
<td>40</td>
</tr>
<tr>
<td><strong>Net Revenue (Expense)</strong></td>
<td>(297)</td>
<td>(3,492)</td>
<td>(1,930)</td>
<td>(40)</td>
<td>244</td>
</tr>
<tr>
<td>Beginning Fund Balance</td>
<td>11,001</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ending Fund Balance</td>
<td></td>
<td></td>
<td></td>
<td>7,508</td>
<td></td>
</tr>
</tbody>
</table>

| Section Member Count - Paid             | 1            | 82                  | 70                      |
| Section Member Count                    | 11           | 54                  | 28                      |
| Section Member Count - Total            | 12           | 138                 | 164                     |
Health Law Section

November 19, 2019

To:       Oregon State Bar Board of Governors Budget and Finance Committee
From:     Jennifer Baker, Treasurer, Health Law Section
RE:       Waiver Request

Dear Board of Governors:

Today the Oregon Health Law Section Executive Committee came together to discuss our 2020 budget. After considerable discussion, I write to you to request a waiver of the newly adopted bylaw regarding the per member assessment fee.

In October, the Health Law Section hosted our annual CLE event in downtown Portland for the first time in many years with great success. We maxed out on our registration and had to turn potential attendees away when the limit was reached. We garnered excellent reviews from participates regarding our CLE speakers and on having the event downtown. We are hoping to expand this success next year by increasing our budget from $15,000 to $18,000. The increased costs come from securing a larger venue in the downtown Portland area and conducting the CLE as a webinar to be broadcast throughout the state.

Another opportunity our board would like implement is a New Member Outreach event. This would be an event in early 2020 with invites going to all members of the Bar trying to increase our membership. The estimated cost for this event includes roughly $3500.

Should we be able to increase our Annual CLE budget to $18,000 and implement a New Member Outreach event for $3000, our ending balance for 2020 comes to an estimated $993. Our goal is to increase participation in the Health Law Section without increasing our membership fees.
Our estimated expenses for the Annual event include:

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Location</td>
<td>Downtown Portland Venue</td>
<td>$3000</td>
</tr>
<tr>
<td>Tech/AV/Materials</td>
<td>On location</td>
<td>$1000</td>
</tr>
<tr>
<td>Catering</td>
<td>On location</td>
<td>$5000</td>
</tr>
<tr>
<td>Speakers</td>
<td>Estimated</td>
<td>$5000</td>
</tr>
<tr>
<td>Speaker Lodging</td>
<td>Estimated</td>
<td>$4000</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td></td>
<td><strong>$18,000</strong></td>
</tr>
</tbody>
</table>

New Member Outreach Event:

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Location</td>
<td>Portland Area</td>
<td>$500</td>
</tr>
<tr>
<td>Catering</td>
<td>On location</td>
<td>$2500</td>
</tr>
<tr>
<td>Outreach/Invites</td>
<td>Bar Services</td>
<td>$500</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td></td>
<td><strong>$3500</strong></td>
</tr>
</tbody>
</table>

Thank you for your time and consideration. Please contact me anytime with questions.

Sincerely,

Jennifer Baker
Indian Law Section

Request for Waiver of Membership Assessment Fee

November 19, 2019
Indian Law Section
Oregon State Bar

As treasurer for the Indian Law Section (ILS), I write to request a waiver of the newly adopted bylaw regarding the per member assessment fee. As of October 31, the ILS had 177 members with dues of $20 making the two-year carryover limit $7,080.00. The section’s fund balance on this same date was $10,869.

The ILS has several ideas to spend down the surplus of $3,789. Depending on the capacity of the ILS Board, we hope to plan and sponsor (or co-sponsor) a CLE event in 2020. We expect attendance in person of approximately 50 lawyers and students, and hope to broadcast the presentations via webinar to locations throughout the state. The ILS would like to apply accumulated funds that are now subject to the new bylaw assessment towards that CLE event in 2020, and therefore we request a waiver or extension of the new bylaw to allow the carryover of funds to be applied to this CLE in 2020. In support of this request, we provide a draft budget for expenditures related to this CLE:

Expenditures for CLE:

Location: Unknown (perhaps Lewis & Clark Law School) $0
Webinar tech: $0
Catering On location: $1,500
Speaker travel/lodging Up to: $2,000
Materials/duplication $700
Total Expenditures $4,200

In addition, ILS plans to spend down the surplus funds in other ways, including partially sponsoring law students to attend the Federal Bar Association Indian Law Conference in Albuquerque, NM on April 6 - 7, 2020. We also plan to host networking and social events with students interested in the field of Indian law at Lewis & Clark Law School.

We do not anticipate difficulty spending down the $3,789. However, in the alternative, ILS requests a waiver to postpone the 100% assessment until after the year 2021 to enable it to fund the planned level of activities for the next two years.

Thank you,

Sarah Dandurand
REQUEST FOR WAIVER OF MEMBERSHIP ASSESSMENT FEE

Debtor-Creditor Section – Oregon State Bar

The mission of the Debtor-Creditor (“D-C”) Section is to promote, through the greater understanding of legal issues, the efficient resolution of debtor-creditor disputes both inside and outside of the courts. The D-C Section offers its members numerous opportunities to stay current on relevant legal issues, comment on legislation, attend CLE activities, promote financial literacy and education to the general public, and participate in pro bono activities. Our Section organizes and offers its members two primary annual CLEs and regularly co-sponsors additional CLEs and Bar events. It publishes a bi-annual newsletter. It is notable that the D-C Section also goes well beyond standard bar section activities. It works closely with LASO to sponsor and staff multiple bankruptcy pro bono clinics throughout the State of Oregon with volunteer attorneys.

We are writing to request a waiver from the Board of Governor’s (“BOG”) bylaw change eliminating the 50% subsidy on the per member assessment fee if a section has more than two years of membership dues revenue. In our past Executive Committee discussions with the members of the Bar and BOG, it was never suggested that our Section would have to forgo a portion of the Section’s surplus funds if they were not utilized. Rather, we were consistently assured that any efforts by the BOG to limit budget reserves would not adversely affect active sections, such as the D-C Section. Had we known this new policy was imminent, we would have budgeted use of the surplus in last year’s financials to promote the Section over the next two years. We now ask that the BOG give us this opportunity to benefit our membership before imposing the additional member assessment charge.

As a Section, we have historically and purposefully worked to create and maintain a larger fund balance through frugal budgeting and the careful allocation and use of funds. The purpose of this approach has been to assure that the Section will have sufficient funds to provide quality services to its members and pro bono clinics regardless of: (1) the regular fluctuation of the Section’s expenses, and (2) the cyclical nature of the Section’s membership numbers. Unlike other sections, our membership varies based on market conditions since the demand for debtor-creditor related work is tied to the relative health of our economy (among other factors). We attribute our Section’s surplus not to a lack of use of those funds. Rather, the surplus was sustained through a concerted effort on the part of the Executive Committee, the frugality of our members, and forgoing certain activities and/or requested donations. For example, individual Executive Committee members, annual meeting speakers, and various section committee members voluntarily chose to forgo submitting expense reimbursements in an effort to provide financial assistance to the Section, given its declining membership and annual revenues. Our Section members pay larger membership dues. They understand the value they receive from that relatively expensive membership -- and our members expect the Executive Committee to manage the Section’s funds conservatively.
As mentioned, the D-C Section’s expenses fluctuate regularly. If the Section elects to have its annual meeting in Bend or the Central Oregon Coast, then CLE expenses will exceed the associated revenue, requiring the Section to spend down its surplus. Alternatively, the Section can elect to have its meeting at a law school campus or limit the program to a single day event. In past years, the Executive Committee and Annual Meeting Committee have elected to hold the Section’s Annual Meeting at locations with lower expenses in order to build a reserve to cover a more expensive location in future years. In 2020, the D-C Section Annual Meeting will be held at Sun River. Anticipated expenses for that CLE are $28,526, which breaks down as follows:

**Expenses:**

**FRIDAY** -

<table>
<thead>
<tr>
<th>Expense Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Room Rental/Set Up Fee</td>
<td>$ 500.00</td>
</tr>
<tr>
<td>Continental Breakfast</td>
<td></td>
</tr>
<tr>
<td>Buffet Lunch/Box Lunches</td>
<td>$ 2,040.00</td>
</tr>
<tr>
<td>Coffee, Tea, Beverages &amp; Snacks</td>
<td>$ 1,800.00</td>
</tr>
<tr>
<td>Friday Cocktail Reception Hors d'oeuvres</td>
<td>$ 1,750.00</td>
</tr>
<tr>
<td>Bartender, Servers, and Setup (No Host)</td>
<td>$ 200.00</td>
</tr>
<tr>
<td>Dinner (Optional - approx $60/person)</td>
<td>$ 5,100.00</td>
</tr>
<tr>
<td>Gratuity</td>
<td>$ 2,395.80</td>
</tr>
<tr>
<td><strong>Total Friday:</strong></td>
<td><strong>$ 13,785.80</strong></td>
</tr>
</tbody>
</table>

**SATURDAY** -

<table>
<thead>
<tr>
<th>Expense Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full Breakfast</td>
<td>$ 2,125.00</td>
</tr>
<tr>
<td>Coffee, Tea &amp; Beverages</td>
<td>$ 850.00</td>
</tr>
<tr>
<td>Gratuity</td>
<td>$ 654.50</td>
</tr>
<tr>
<td><strong>Total Saturday:</strong></td>
<td><strong>$ 3,629.50</strong></td>
</tr>
</tbody>
</table>

**Conference Facilities/Audio Video**

<table>
<thead>
<tr>
<th>Expense Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clickers/Phone Voting</td>
<td></td>
</tr>
<tr>
<td>Audio/Video Equipment &amp; Services</td>
<td><strong>$ 2,500.00</strong></td>
</tr>
<tr>
<td><strong>Total Audio/Video Equipment &amp; Services</strong></td>
<td><strong>$ 2,500.00</strong></td>
</tr>
</tbody>
</table>

**OSB Fees**

<table>
<thead>
<tr>
<th>Expense Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>CLE Registration Services</td>
<td><strong>$ 1,000.00</strong></td>
</tr>
<tr>
<td><strong>Total OSB Fees</strong></td>
<td><strong>$ 1,000.00</strong></td>
</tr>
</tbody>
</table>

**Speaker Expenses**

<table>
<thead>
<tr>
<th>Expense Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hotel</td>
<td>$ 4,140.00</td>
</tr>
<tr>
<td>Taxes</td>
<td>$ 331.20</td>
</tr>
<tr>
<td>Mileage</td>
<td>$ 3,139.20</td>
</tr>
<tr>
<td><strong>Total Speaker Expenses</strong></td>
<td><strong>$ 7,610.40</strong></td>
</tr>
</tbody>
</table>

**Grand Total Expenses:** $ 28,525.70
If the Section charges a registration fee of $295, the total anticipated net loss from this CLE will be approximately $6,500.

The funds necessary to support various pro bono clinics across the state also fluctuates depending on the public need for those services. Currently, the Pro Bono Committee is seeking to expand into Jackson County, Oregon, providing valued legal services to that area. Section members created and expanded similar and very successful clinics in Pendleton and Bend, Oregon. Estimated necessary reserves are for education, CLE’s, training, and clinic materials (est. $15,000). The Section also seeks to increase annual contributions to non-profit organizations that advance debtor-creditor or insolvency interests, such as financial literacy programs for students, young adults, and people who have been incarcerated (est. $3,000-$5,000). Costs for other CLE programs such as the Northwest Bankruptcy Institute conference also vary.

The D-C Section has experienced a decline in its membership for the past 10 years. As such, our annual revenues have also declined. With continued reduction in membership and increase expenditures as expected, by 2021 the Section should be well within the new policy requirements. For the reasons set forth above, the D-C Section requests a waiver to postpone the 100% assessment until after the year 2021 to enable it to fund the planned level of activities over the next two years.

Dated: November 19, 2019

s/Britta E. Warren
2019 Chair

s/Laura Donaldson
2019 Chair-Elect

s/Margot Seitz
2019 Treasurer
OREGON STATE BAR
Board of Governors

Meeting Date: November 23, 2019
From: Budget and Finance Committee
Subject: Sustainability Report

Background

Per OSB bylaw 26.0, a report summarizing the Bar’s efforts in the area of Sustainability is to be delivered to the BOG annually. A report was not provided in calendar year 2018. This report therefore is a summary of efforts including those actions that were implemented in the past 12 – 24 months.

Report

The Bar’s efforts in the area of Sustainability extend into several areas and can be broadly categorized as follows; a) Daily use, b) Print and Postage, c) I/T tools and benefits, and d) Utilities. Below is an overview of current efforts and activities:

Daily Use:
Our conference room areas all attempt to utilize static machine washable glasses, dishes, and utensils as opposed to paper and/or plastic. Our break room area also contains machine washable items for employee use so that we attempt to limit the use of those materials that are non-sustainable. Recycling bins are available in the break room and all conference rooms, as well as the primary copy room areas. Most employees have recycling boxes that they use to help separate those items. While the bar does not track precise metrics regarding usage or $ cost savings in this area, a conservative estimate is that the Bar annually captures in excess of 26,000 lbs annually of used materials to be recycled (~ 100 lbs per day).

Print and Postage:
Over the past several years, there has been a significant increase in the use of electronic media to transmit materials, and thus reduce the reliance on paper printing and carrier post which has translated into a significant cost savings. As of several years ago, the Bar had previously employed two full-time persons in the first floor copy center that were dedicated to executing print and copy jobs, and administrating items to be prepped and packaged for postal delivery. Recent expense trend data:

<table>
<thead>
<tr>
<th>Year</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Postage and Shipping</td>
<td>78,542</td>
<td>67,967</td>
<td>51,489</td>
<td>56,475</td>
<td>51,160</td>
</tr>
<tr>
<td>YoY % Change</td>
<td></td>
<td>-13%</td>
<td>-24%</td>
<td>10%</td>
<td>-9%</td>
</tr>
</tbody>
</table>
Our total Supplies and carrier post expenses are trending as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Copy Volume (pages)</td>
<td>1,377,757</td>
<td>1,203,747</td>
<td>1,288,585</td>
</tr>
<tr>
<td>Copy &amp; Printing Expense</td>
<td>$92,606</td>
<td>$92,163</td>
<td>$88,523</td>
</tr>
<tr>
<td>YoY % Change in Expense</td>
<td>-0.5%</td>
<td>-3.9%</td>
<td></td>
</tr>
</tbody>
</table>

Tools and Benefits:
The implementation of Aptify has allowed the complete migration of the member fee process to all electronic communication. Additionally, CLE has migrated practically all of their collaterals to non-paper forms of distribution and storage. With the recent department implementation of Aptify in MCLE, that group is on target on a go-forward basis to achieving greater than 90% non-paper forms of storage and distribution as well.

Utilities:
As further detailed below, the bar has recently converted with PGE to 100% clean energy, and has retrofitted most of the lighting to LED lighting.

Efforts Initiated over the past 24 months

1. Converted the Bar’s energy usage with utility provider PGE to clean energy sources per the PGE clean energy certificate program. The program commits the bar to receiving energy from clean energy sources, and per statistics provided by PGE is allowing the bar to avoid more than 1,000,000 pounds of CO2 from entering the atmosphere (the equivalent of 123 trees planted or not driving 1,157,005 miles annually). This action has increased utilities expenses approximately $3K per year, but considered worthwhile in the larger context of the bar’s sustainability policy and reducing our carbon footprint. This action was completed in November of 2018.

2. Retrofitted most of the lighting in the bar building from fluorescent/incandescent lighting to LED lighting. The cost for this project in total was approximately $100K, of which $91K was financed on a 3-year lease. Annual savings will exceed the annual lease payments by $1 – 2K per year during the lease term, and thereafter will generate annual savings on utility costs in the amount of ~$36K per year, an overwhelmingly positive payback on the investment and makes greater use of environmentally friendly components that do not contain lead or mercury. This action is 99% complete as of November 2019.

3. Implementation of remote conferencing application BlueJeans. This effort was initiated by the I/T department (Gonzalo Gonzalez, I/T Director) this year, and has allowed the bar to conduct meetings via remote screen and audio conferencing instead of all persons face to face. BOG members have attended meetings via BlueJeans also saving time and the cost of reimbursed travel. The bar’s Human resources department has utilized BlueJeans to conduct interviews that otherwise would have been done face to face. To date there have been 118 meetings using BlueJeans involving at least 429 persons. A very conservative estimate is that in 6 months of use, the bar has already saved the equivalent of 16 paid trips at $150 per trip, or $2,400 ($4,800
annually). The cost to the bar for Bluejeans is $199 per year. While the benefits to the bar are primarily cost savings, the sustainability benefit is fewer motorized vehicle trips and emissions. Bluejeans was implemented in April 2019.

4. BOG decision to implement a filter to exclude direct investment in fossil fuels in the bar’s investment portfolio. This action will ensure that the bar is not directly invested in companies whose primary mode of business is extraction/refinement of oil and gas, and will re-direct those monies to other investments (typically between $50K to $200K). This decision was made in November 2019 and is in the process of being fully implemented prior to December 31, 2019.

Additional Actions considered and rejected

1. Installation of electric vehicle charging (EVC) stations. This evaluation was performed in response to a staff member request to evaluate the sustainability benefits in addition to providing assistance to those individuals that work at and visit the bar building who drive electric vehicles. Unfortunately, the cost associated with the investment to install stations, power, and maintenance going forward far outweighed the benefits (inclusive of fees collected and fuel credits) and over a five-year period had a calculated return of NPV -$8,672 / ROI -49%. The bar executive team concluded there are other, more critical and germane project needs and has decided to not consider this idea further.

Impediments and Opportunities

1. Performance of the U.S. postal service has at times been a challenge. The opportunity that this highlights, is ANY activity that can be reliably migrated to a completely electronic means of storage and transmittal, will save staff time, supplies cost, and postage should be pursued. This carries the sustainability benefit to the bar of reduced supplies and printed materials for transport and later disposal.

2. The implementation of Aptify carries with it the opportunity to further migrate departmental activities conducted in paper, to electronic forms of storage and distribution to further reduce our supplies expense and cost. Activities that are currently being scoped with this objective in mind are: a) Admissions, and b) Member Services. Committees are a topic area that is slotted for evaluation and migration sometime in 2020. This action is in process.

3. The implementation of Bluejeans as a remote meeting tool of choice has many opportunities to be further deployed in 2020 and beyond. The bar has just started to more fully introduce Bluejeans for use by General Counsel and Disciplinary Services and in 2020 has plans to continue to introduce this to Sections and other committees. This action is in process.
OREGON STATE BAR
Article 26 Sustainability

The Bar supports the goal of sustainability, generally defined as meeting present needs without compromising the ability of future generations to meet their own needs. Because Bar operations and the practice of law impact the environment and society generally, the Bar will be cognizant of sustainability in its internal operating practices as well as in its service to members. Internally, the Chief Executive Officer will designate a sustainability coordinator for Bar operations, will encourage continuous sustainability improvement in Bar operations, and will report to the Board of Governors at least annually on progress and impediments. In the practice of law, principles of sustainability may be important in addressing competing economic, social and environmental priorities that impact future generations. 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.
OREGON STATE BAR
Board of Governors Agenda

Meeting Date: November 23, 2019
From: John Bachofner, Board Development Committee Chair
Re: Appointment recommendations to various bar groups

Action Recommended

Approve the Board Development Committee’s recommendations for member and non-member appointments to the following groups.

Background

During the Board Development Committee’s meeting on November 23 the committee selected the following members for appointment consideration for terms beginning January 1, 2020.

**Bar Press Broadcasters Council**

Provides means of communication among the OSB, Oregon Newspaper Publishers Association and Oregon Association of Broadcasters.
Chair: Scott Healy
Members:
Scott Healy
Laura Cadiz
Sam Kauffman
Leland Baxter-Neal
Dexter Johnson

**Bulletin Editorial Advisory Committee**

The committee provides guidance on editorial policies and content for the bar Bulletin. Work closely with the Editor to ensure the magazine’s content is topical, thought-provoking, aligned with the bar’s mission and of interest to significant segments of the bar.
Chair: Elizabeth Rosso
Secretary: Judy Parker
Members:
Carol Skerjanec, term expires 12/31/2020
Elizabeth Rosso
Aurora Levinson

**Legal Ethics Committee**

The Committee develops opinions in response to ethics inquiries; recommend changes to the ethics code.
Chair: Jonathan Monson
Secretary: Susan Alterman
Members:
Jonathan Monson, term expires 12/31/2020
Corey Tolliver, term expires 12/31/2020
Marc Fucile
Douglas Olson
Alison Wilkinson
Susan Myers
Melissa Bobadilla
David Cramer

**Legal Heritage Committee**
Preserves and communicates the history of the OSB to interested groups.
Chair: Michael Turner
Secretary: Rachel Kotkin
Members:
Marc D. Brown
Chelle B. Haynes
Kimberly Tellin
Paul Nickell

**Legal Services Program Committee**
Charged with oversite of the OSB Legal Services Program and the funds appropriated to the bar by the Oregon Legislature.
Secretary: Sandy Hansberger

**Loan Repayment Assistance Program**
Amends and sets program policy guidelines and selects program recipients.
Chair: Alan Rappleyea
Members:
Elaine Brown
Alan Rappleyea

**MCLE Committee**
The Committee provides input, analysis and evaluation of the program that accredits education programs for Oregon attorneys.
Chair: Camilla Thurmond
Secretary: Nicole Abercombie
Members:
Erin Galli
Sarah Feldman
Nancy Patton

**Pro Bono Committee**
The Committee assists with expansion of services to low-income clients in civil matters.
Chair: Nicholas Reed
Chair: Tiffany Blackmon
Members:
Alena Tupper, term expires 12/31/2020
Anna Craven Claypool, term expires 12/31/2020
Lori Hymowitz, term expires 12/31/2021
Camilla Asante Thurmond
Kathryn Bourn
Ian David Macleod
Daniel Snyder

**Procedure & Practice Committee**

The Committee studies, monitors, and recommends changes in procedures governing civil cases in Oregon.
Chair: Michelle Burrows
Members:
Tina Stupasky
Rhett Fraser
Dallas Deluca
Kyle Fleming
Tanya Urbach

**Public Service Advisory Committee**

The Committee provides volunteer opportunities to increase understanding and respect of the justice system by adult Oregonians.
Chair: Rachel Bertoni
Secretary: Joel Overlund
Members:
Leslie Hallan, term expires 12/31/2020
June Mosian, term expires 12/31/2020
David Berryman, term expires 12/31/2020
Blake Robinson
John Edwin Haapala
William Paulus
Jamie Dickinson
Jill Mallery

**Quality of Life Committee**

The Committee educates lawyers and firms about the benefits of balancing personal life and career obligations.
Chair: Timothy Johnson
Secretary: Amrit Mann
Members:
Mai-Anh Nako, term expires 12/31/2020
Bryan Hedlind, term expires 12/31/2020
Emily Fullerton
David Rosen
Alice Plymell
Laurie Hoefer
**Uniform Civil Jury Instructions**

The Committee develops uniform jury instructions for use in civil trials.
Chair: Sheri Browning
Secretary: Grant Engrav
Members:
Grant Engrav, term expires 12/31/21
Katie Jo Johnson, term expires 12/31/21
Eva Marcotrigiano, term expires 12/31/21
Hon. Marilyn Litzenberger
Joel Petersen
Paul Bovarnick
Sarah Pozzi
Stacey Tela-Kerber
Gerald Shean
Nicole Gossett-Schommer

**Uniform Criminal Jury Instructions Committee**

The Committee develops uniform jury instructions for use in criminal trials.
Chair: Lisa Donnell
Secretary: Per Olson
Members:
Tyler Rae Bissett
Brad Kalbaugh
Erica Herb
Sara Werboff
Daniel Bouck

**Unlawful Practice of Law Committee**

The Committee Investigates complaints of unlawful practice; recommends prosecution where appropriate.
Member:
Marc Tisher

**Commission on Judicial Fitness and Disability**

Jeff Wallace

**Oregon Law Foundation**

Chanpone Sinlapasai

**Oregon Law Center and Legal Aid Services of Oregon**

Amy Edwards
Monthly Investment Performance Analysis
Oregon State Bar Professional Liability Fund

Period Ended: September 30, 2019
Capital Markets Review

As of September 30, 2019

General Market Commentary

- During September, the Federal Open Market Committee (FOMC) voted to cut interest rates by 25 basis points, citing weak inflation expectations and concerns about economic growth. This was the second 25 basis point cut of 2019.
- Consistent with the message delivered by the FOMC, over the month Treasury yields fell across the US Treasury curve on signs of weak inflation expectations, slowing economic growth, and global geopolitical uncertainty.
- Most equity markets posted modest returns in September on increased optimism that the US and China could reach a truce in their ongoing trade war. However, equity markets dropped at the end of the month on news that the Trump administration was considering ways to limit US investors’ asset flows into China. Options under consideration include delisting Chinese companies from US stock exchanges and placing limits on Chinese stock exposure in US pension funds.
- Equity markets posted positive returns in September as the S&P 500 (Cap Wtd) Index returned 1.87% and the MSCI EAFE (Net) Index returned 2.87%. Emerging markets returned 1.91% as measured by the MSCI EM (Net) Index.
- The Bloomberg US Aggregate Bond Index returned -0.53% in September, underperforming the -0.45% return by the Bloomberg US Treasury Intermediate Term Index. International fixed income markets returned -1.59%, as measured by the FTSE Non-US World Gov’t Bond Index.
- Public real estate, as measured by the FTSE NAREIT Eq REITs Index (TR), returned 2.93% in September and 10.26% over the trailing five-year period.
- The Cambridge US Private Equity Index returned 12.74% for the trailing one-year period and 12.17% for the trailing five-year period ending March 2019.
- Absolute return strategies, as measured by the HFRI FOF Comp Index, returned -0.63% for the month and -0.18% over the trailing one-year period.
- Crude oil’s price fell by 1.87% during the month, and has decreased by 26.18% YoY.

Economic Indicators

<table>
<thead>
<tr>
<th>Economic Indicator</th>
<th>Sep-19</th>
<th>Aug-19</th>
<th>Sep-18</th>
<th>10 Yr</th>
<th>20 Yr</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal Funds Rate (%)</td>
<td>1.90</td>
<td>▼ 2.13</td>
<td>2.18</td>
<td>0.58</td>
<td>1.84</td>
</tr>
<tr>
<td>Break even Inflation - 5 Year (%)</td>
<td>1.35</td>
<td>▼ 1.36</td>
<td>2.03</td>
<td>1.75</td>
<td>1.85</td>
</tr>
<tr>
<td>Break even Inflation - 10 Year (%)</td>
<td>1.52</td>
<td>▼ 1.54</td>
<td>2.14</td>
<td>2.01</td>
<td>2.03</td>
</tr>
<tr>
<td>Break even Inflation - 30 Year (%)</td>
<td>1.59</td>
<td>▼ 1.60</td>
<td>2.16</td>
<td>2.14</td>
<td>2.26</td>
</tr>
<tr>
<td>Bloomberg US Agg Bond Index - Yield (%)</td>
<td>2.26 ▼ 2.13</td>
<td>3.46</td>
<td>2.54</td>
<td>3.85</td>
<td></td>
</tr>
<tr>
<td>Bloomberg US Agg Bond Index - OAS (%)</td>
<td>0.46 ▼ 0.48</td>
<td>0.39</td>
<td>0.53</td>
<td>0.63</td>
<td></td>
</tr>
<tr>
<td>Bloomberg US Agg Credit Index - OAS (%)</td>
<td>1.09 ▼ 1.14</td>
<td>1.00</td>
<td>1.34</td>
<td>1.46</td>
<td></td>
</tr>
<tr>
<td>Bloomberg US Corp: HY Index - OAS (%)</td>
<td>3.73 ▼ 3.93</td>
<td>3.16</td>
<td>4.90</td>
<td>5.49</td>
<td></td>
</tr>
<tr>
<td>Capacity Utilization (%)</td>
<td>N/A</td>
<td>N/A</td>
<td>77.88</td>
<td>79.25</td>
<td>76.46</td>
</tr>
<tr>
<td>Unemployment Rate (%)</td>
<td>3.5</td>
<td>▼ 3.7</td>
<td>3.7</td>
<td>6.4</td>
<td>5.9</td>
</tr>
<tr>
<td>PMI - Manufacturing (%)</td>
<td>47.8</td>
<td>▼ 49.1</td>
<td>59.5</td>
<td>54.4</td>
<td>52.8</td>
</tr>
<tr>
<td>Baltic Dry Index - Shipping (%)</td>
<td>1,823</td>
<td>▼ 2,378</td>
<td>1,540</td>
<td>1,323</td>
<td>2,323</td>
</tr>
<tr>
<td>Consumer Conf (Conf Board)</td>
<td>125.10</td>
<td>▼ 134.20</td>
<td>135.30</td>
<td>89.44</td>
<td>92.64</td>
</tr>
<tr>
<td>CPI YoY (Headline) (%)</td>
<td>1.7</td>
<td>▼ 1.7</td>
<td>2.3</td>
<td>1.7</td>
<td>2.2</td>
</tr>
<tr>
<td>CPI YoY (Core) (%)</td>
<td>2.4</td>
<td>▼ 2.4</td>
<td>2.2</td>
<td>1.8</td>
<td>2.0</td>
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<tr>
<td>PPI YoY (%)</td>
<td>-0.2</td>
<td>▼ 0.2</td>
<td>3.2</td>
<td>1.8</td>
<td>2.3</td>
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<tr>
<td>M2 YoY (%)</td>
<td>N/A</td>
<td>N/A</td>
<td>5.4</td>
<td>3.7</td>
<td>5.9</td>
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<tr>
<td>US Dollar Total Weighted Index</td>
<td>93.09</td>
<td>▼ 92.88</td>
<td>90.11</td>
<td>82.39</td>
<td>86.12</td>
</tr>
<tr>
<td>WTI Crude Oil per Barrel ($)</td>
<td>54</td>
<td>▼ 55</td>
<td>73</td>
<td>73</td>
<td>62</td>
</tr>
<tr>
<td>Gold Spot per Oz ($)</td>
<td>1,472</td>
<td>▼ 1,520</td>
<td>1,193</td>
<td>1,338</td>
<td>920</td>
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</table>

Market Performance (%)

<table>
<thead>
<tr>
<th>Market Performance (%)</th>
<th>Sep-19</th>
<th>Aug-19</th>
<th>Sep-18</th>
<th>Sep-17</th>
<th>Sep-16</th>
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</thead>
<tbody>
<tr>
<td>S&amp;P 500 (Cap Wtd)</td>
<td>1.88</td>
<td>1.99</td>
<td>2.19</td>
<td>1.06</td>
<td>0.29</td>
</tr>
<tr>
<td>Russell 2000</td>
<td>1.63</td>
<td>1.89</td>
<td>2.36</td>
<td>1.20</td>
<td>0.45</td>
</tr>
<tr>
<td>MSCI EAFE (Net)</td>
<td>1.75</td>
<td>1.76</td>
<td>2.59</td>
<td>1.31</td>
<td>0.59</td>
</tr>
<tr>
<td>MSCI EAFE SC (Net)</td>
<td>1.63</td>
<td>1.50</td>
<td>2.61</td>
<td>1.47</td>
<td>0.77</td>
</tr>
<tr>
<td>MSCI EM (Net)</td>
<td>1.55</td>
<td>1.39</td>
<td>2.94</td>
<td>1.92</td>
<td>1.14</td>
</tr>
<tr>
<td>Bloomberg US Agg Bond</td>
<td>1.62</td>
<td>1.45</td>
<td>3.01</td>
<td>2.16</td>
<td>1.42</td>
</tr>
<tr>
<td>Bloomberg US Corp: HY</td>
<td>1.94</td>
<td>1.78</td>
<td>3.13</td>
<td>2.63</td>
<td>1.99</td>
</tr>
<tr>
<td>MSCI EAFE SC (Net)</td>
<td>2.12</td>
<td>1.96</td>
<td>3.19</td>
<td>2.86</td>
<td>2.32</td>
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</table>

The previous month’s CPI YoY is used as a proxy for the current YoY return until it becomes available.

NCREIF performance is reported quarterly. MTD and QTD returns are shown as “N/A” on interim-quarter months and until available. Data shown is as of most recent quarter-end.

Treasury data courtesy of the US Department of the Treasury. Economic data courtesy of Bloomberg Professional Service.
## Annual Asset Class Performance

As of September 30, 2019

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
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<th></th>
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<tbody>
<tr>
<td>2005</td>
<td>34.00</td>
<td>35.03</td>
<td>39.38</td>
<td>8.44</td>
<td>78.51</td>
<td>27.94</td>
<td>22.49</td>
<td>20.00</td>
<td>38.82</td>
<td>30.14</td>
<td>15.02</td>
<td>21.31</td>
<td>37.28</td>
<td>8.35</td>
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<td>21.39</td>
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<td>2.06</td>
<td>46.78</td>
<td>22.04</td>
<td>13.56</td>
<td>18.06</td>
<td>29.30</td>
<td>13.69</td>
<td>3.20</td>
<td>11.96</td>
<td>25.03</td>
<td>0.01</td>
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<td>2009</td>
<td>13.54</td>
<td>18.37</td>
<td>11.17</td>
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<td>28.01</td>
<td>16.83</td>
<td>7.84</td>
<td>16.35</td>
<td>13.94</td>
<td>5.97</td>
<td>0.55</td>
<td>11.19</td>
<td>14.65</td>
<td>-2.08</td>
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<tr>
<td>2010</td>
<td>12.17</td>
<td>16.32</td>
<td>10.25</td>
<td>-21.37</td>
<td>27.17</td>
<td>16.36</td>
<td>4.98</td>
<td>16.00</td>
<td>8.96</td>
<td>4.89</td>
<td>0.05</td>
<td>8.77</td>
<td>10.71</td>
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<td>2011</td>
<td>7.49</td>
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<td>15.12</td>
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<td>15.81</td>
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<td>8.52</td>
<td>7.77</td>
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<tr>
<td>2012</td>
<td>5.34</td>
<td>11.86</td>
<td>6.60</td>
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<td>15.06</td>
<td>0.10</td>
<td>10.94</td>
<td>2.47</td>
<td>3.37</td>
<td>-0.61</td>
<td>6.67</td>
<td>7.62</td>
<td>-4.62</td>
</tr>
<tr>
<td>2013</td>
<td>4.91</td>
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<td>5.49</td>
<td>-35.65</td>
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<td>10.16</td>
<td>-4.18</td>
<td>8.78</td>
<td>0.07</td>
<td>2.45</td>
<td>-1.44</td>
<td>4.68</td>
<td>7.50</td>
<td>-4.68</td>
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<tr>
<td>2014</td>
<td>4.55</td>
<td>4.85</td>
<td>5.00</td>
<td>-37.00</td>
<td>11.41</td>
<td>7.75</td>
<td>-5.72</td>
<td>6.98</td>
<td>-2.02</td>
<td>0.04</td>
<td>-3.30</td>
<td>2.65</td>
<td>5.23</td>
<td>-11.01</td>
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<tr>
<td>2015</td>
<td>3.07</td>
<td>4.34</td>
<td>1.87</td>
<td>-37.74</td>
<td>5.93</td>
<td>6.54</td>
<td>-13.14</td>
<td>4.79</td>
<td>-2.60</td>
<td>-2.19</td>
<td>-4.41</td>
<td>2.18</td>
<td>3.54</td>
<td>-11.25</td>
</tr>
<tr>
<td>2016</td>
<td>2.84</td>
<td>2.72</td>
<td>1.45</td>
<td>-43.18</td>
<td>1.92</td>
<td>6.31</td>
<td>-13.32</td>
<td>4.21</td>
<td>-8.61</td>
<td>-4.00</td>
<td>-4.47</td>
<td>1.00</td>
<td>3.01</td>
<td>-11.79</td>
</tr>
<tr>
<td>2017</td>
<td>2.74</td>
<td>2.07</td>
<td>-1.57</td>
<td>-47.01</td>
<td>0.21</td>
<td>5.70</td>
<td>-15.94</td>
<td>0.11</td>
<td>-8.83</td>
<td>-4.95</td>
<td>-14.92</td>
<td>0.51</td>
<td>1.70</td>
<td>-14.58</td>
</tr>
<tr>
<td>2018</td>
<td>2.43</td>
<td>0.49</td>
<td>-15.70</td>
<td>-53.33</td>
<td>-29.76</td>
<td>0.13</td>
<td>-18.42</td>
<td>-1.06</td>
<td>-9.52</td>
<td>-17.01</td>
<td>-24.66</td>
<td>0.33</td>
<td>0.86</td>
<td>-17.89</td>
</tr>
</tbody>
</table>

NCREIF ODCE (Gross) performance is reported quarterly; performance is shown N/A in interim-quarter months.
Oregon State Bar Professional Liability Fund
Total Fund
Asset Allocation by Manager and Schedule of Investable Assets

As of September 30, 2019

Asset Allocation by Manager

September 30, 2019 : $58,529,468

<table>
<thead>
<tr>
<th>Allocation (%)</th>
<th>Market Value ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vanguard TSM Idx;Inst (VITSX)</td>
<td>27.24</td>
</tr>
<tr>
<td>DoubleLine:Cr Fxd In;I (DBLFX)</td>
<td>15.90</td>
</tr>
<tr>
<td>Guggenheim:TR Bd;Inst (GIBIX)</td>
<td>15.87</td>
</tr>
<tr>
<td>American Funds EuPc;F3 (FEUPX)</td>
<td>10.59</td>
</tr>
<tr>
<td>Dodge &amp; Cox Intl Stock (DODFX)</td>
<td>10.42</td>
</tr>
<tr>
<td>WellsFargo:SD Gv Bd;I (WSGIX)</td>
<td>6.08</td>
</tr>
<tr>
<td>RREEF America REIT II (CF)</td>
<td>5.91</td>
</tr>
<tr>
<td>Voya:Floating Rate;I (IFRIX)</td>
<td>4.72</td>
</tr>
<tr>
<td>Barings Core Property (CF)</td>
<td>3.27</td>
</tr>
</tbody>
</table>

Performance shown is net of fees. Market values and performance are preliminary and subject to change. Allocations shown may not sum up to 100% exactly due to rounding. During 06/2019 and 07/2019, $2,000,000 was distributed from Wells Fargo:SD Gv Bd;I (WSGIX). During 09/2019, $1,200,000 was distributed from Wells Fargo:SD Gv Bd;I (WSGIX). The market value for RREEF America REIT II (CF) is estimated using manager provided performance.

Schedule of Investable Assets

<table>
<thead>
<tr>
<th>Periods Ending</th>
<th>Beginning Market Value ($)</th>
<th>Net Cash Flow ($)</th>
<th>Gain/Loss ($)</th>
<th>Ending Market Value ($)</th>
<th>% Return</th>
</tr>
</thead>
<tbody>
<tr>
<td>CYTD</td>
<td>52,764,636</td>
<td>-200,000</td>
<td>5,964,832</td>
<td>58,529,468</td>
<td>10.44</td>
</tr>
</tbody>
</table>

Performance shown is net of fees. Market values and performance are preliminary and subject to change. Allocations shown may not sum up to 100% exactly due to rounding. During 06/2019 and 07/2019, $2,000,000 was distributed from Wells Fargo:SD Gv Bd;I (WSGIX). During 09/2019, $1,200,000 was distributed from Wells Fargo:SD Gv Bd;I (WSGIX). The market value for RREEF America REIT II (CF) is estimated using manager provided performance.
### Asset Allocation & Performance

<table>
<thead>
<tr>
<th>Allocation</th>
<th>Market Value ($)</th>
<th>Allocation (%)</th>
<th>Performance (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Fund Ex Low Duration</td>
<td>54,972,503</td>
<td>100.00</td>
<td>0.63</td>
</tr>
<tr>
<td>Domestic Equity</td>
<td>15,941,217</td>
<td>29.00</td>
<td>1.09</td>
</tr>
<tr>
<td>International Equity</td>
<td>12,299,064</td>
<td>22.37</td>
<td>-1.62</td>
</tr>
<tr>
<td>Intermediate Fixed Income</td>
<td>18,595,731</td>
<td>33.83</td>
<td>1.57</td>
</tr>
<tr>
<td>Bank Loans</td>
<td>2,762,670</td>
<td>5.03</td>
<td>0.51</td>
</tr>
<tr>
<td>Real Estate</td>
<td>5,373,820</td>
<td>9.78</td>
<td>1.38</td>
</tr>
</tbody>
</table>

### Asset Allocation vs. Target Allocation

<table>
<thead>
<tr>
<th>Allocation</th>
<th>Market Value ($)</th>
<th>Allocation (%)</th>
<th>Target (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Domestic Equity</td>
<td>15,941,217</td>
<td>29.00</td>
<td>29.00</td>
</tr>
<tr>
<td>International Equity</td>
<td>12,299,064</td>
<td>22.37</td>
<td>23.00</td>
</tr>
<tr>
<td>Intermediate Fixed Income</td>
<td>18,595,731</td>
<td>33.83</td>
<td>33.00</td>
</tr>
<tr>
<td>Bank Loans</td>
<td>2,762,670</td>
<td>5.03</td>
<td>5.00</td>
</tr>
<tr>
<td>Real Estate</td>
<td>5,373,820</td>
<td>9.78</td>
<td>10.00</td>
</tr>
<tr>
<td>Total Fund</td>
<td>54,972,503</td>
<td>100.00</td>
<td>100.00</td>
</tr>
</tbody>
</table>

### Asset Allocation vs. Target Allocation Differences

- Domestic Equity: 0.00%
- International Equity: -0.63%
- Intermediate Fixed Income: 0.83%
- Bank Loans: 0.03%
- Real Estate: -0.22%

### Schedule of Investable Assets

<table>
<thead>
<tr>
<th>Periods Ending</th>
<th>Beginning Market Value ($)</th>
<th>Net Cash Flow ($)</th>
<th>Gain/Loss ($)</th>
<th>Ending Market Value ($)</th>
<th>% Return</th>
</tr>
</thead>
<tbody>
<tr>
<td>CYTD</td>
<td>49,253,795</td>
<td>-</td>
<td>5,718,708</td>
<td>54,972,503</td>
<td>11.58</td>
</tr>
</tbody>
</table>

Performance shown is net of fees. Market values and performance are preliminary and subject to change. Allocations shown may not sum up to 100% exactly due to rounding. During 06/2019 and 07/2019, $2,000,000 was distributed from Wells Fargo:SD Gv Bd;I (WSGIX). During 09/2019, $1,200,000 was distributed from Wells Fargo:SD Gv Bd;I (WSGIX). The market value for RREEF America REIT II (CF) is estimated using manager provided performance.
<table>
<thead>
<tr>
<th>Oregon State Bar Professional Liability Fund</th>
<th>As of September 30, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Comparative Performance</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>MTD</td>
<td>QTD</td>
</tr>
<tr>
<td>Total Fund</td>
<td></td>
</tr>
<tr>
<td>1.10</td>
<td>0.66</td>
</tr>
<tr>
<td>Actual Allocation Index</td>
<td></td>
</tr>
<tr>
<td>0.82</td>
<td>0.70</td>
</tr>
<tr>
<td>Difference</td>
<td></td>
</tr>
<tr>
<td>0.28</td>
<td>-0.04</td>
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<td>Total Fund Ex Low Duration</td>
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<tr>
<td>1.18</td>
<td>0.63</td>
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<tr>
<td>Actual Allocation ex Low Duration Index</td>
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<tr>
<td>0.90</td>
<td>0.72</td>
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<tr>
<td>Difference</td>
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<tr>
<td>0.28</td>
<td>-0.09</td>
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<tr>
<td>Domestic Equity</td>
<td></td>
</tr>
<tr>
<td>1.70</td>
<td>1.09</td>
</tr>
<tr>
<td>Russell 3000 Index</td>
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</tr>
<tr>
<td>1.76</td>
<td>1.16</td>
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<tr>
<td>Difference</td>
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<tr>
<td>-0.06</td>
<td>-0.07</td>
</tr>
<tr>
<td>Vanguard TSM Idx;Inst (VITSX)</td>
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<td>1.70</td>
<td>1.09</td>
</tr>
<tr>
<td>Vanguard Spl TSM Index</td>
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<tr>
<td>1.72</td>
<td>1.11</td>
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<tr>
<td>Difference</td>
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</tr>
<tr>
<td>-0.02</td>
<td>-0.02</td>
</tr>
<tr>
<td>International Equity</td>
<td></td>
</tr>
<tr>
<td>3.10</td>
<td>-1.62</td>
</tr>
<tr>
<td>MSCI ACW Ex US Index (USD) (Net)</td>
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</tr>
<tr>
<td>2.57</td>
<td>-1.80</td>
</tr>
<tr>
<td>Difference</td>
<td></td>
</tr>
<tr>
<td>0.53</td>
<td>0.18</td>
</tr>
<tr>
<td>American Funds EuPc;F3 (FEUPX)</td>
<td></td>
</tr>
<tr>
<td>1.84</td>
<td>-1.59</td>
</tr>
<tr>
<td>MSCI ACW Ex US Index (USD) (Net)</td>
<td></td>
</tr>
<tr>
<td>2.57</td>
<td>-1.80</td>
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<tr>
<td>Difference</td>
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<tr>
<td>-0.73</td>
<td>0.21</td>
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<tr>
<td>Dodge &amp; Cox Intl Stock (DODFX)</td>
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<tr>
<td>4.41</td>
<td>-1.66</td>
</tr>
<tr>
<td>MSCI ACW Ex US Index (USD) (Net)</td>
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<tr>
<td>2.57</td>
<td>-1.80</td>
</tr>
<tr>
<td>Difference</td>
<td></td>
</tr>
<tr>
<td>1.84</td>
<td>0.14</td>
</tr>
</tbody>
</table>

Performance shown is net of fees. Performance shown is preliminary and subject to change. Manager inception dates shown represent the first full month following initial funding. Indices show "-" for since inception returns when the fund contains more history than the corresponding benchmark. Real Estate funds and the NCREIF ODCE Index (AWA) (Net) are valued on a quarterly basis, with interim months assuming a 0.00% return until the assets are revalued.
### Oregon State Bar Professional Liability Fund

#### Comparative Performance

As of September 30, 2019

<table>
<thead>
<tr>
<th>Intermediate Fixed Income</th>
<th>MTD</th>
<th>QTD</th>
<th>CYTD</th>
<th>1 Year</th>
<th>3 Years</th>
<th>5 Years</th>
<th>7 Years</th>
<th>10 Years</th>
<th>2018</th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
<th>2014</th>
<th>Since Incep.</th>
<th>Inception Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bloomberg US Agg Bond Index</td>
<td>0.53</td>
<td>2.27</td>
<td>8.52</td>
<td>10.30</td>
<td>2.92</td>
<td>3.38</td>
<td>3.72</td>
<td>4.61</td>
<td>0.48</td>
<td>5.55</td>
<td>4.75</td>
<td>0.89</td>
<td>5.76</td>
<td>5.58</td>
<td>12/01/2005</td>
</tr>
<tr>
<td>Difference</td>
<td>0.12</td>
<td>0.70</td>
<td>1.93</td>
<td>3.06</td>
<td>0.55</td>
<td>0.50</td>
<td>0.59</td>
<td>0.86</td>
<td>0.47</td>
<td>2.01</td>
<td>2.10</td>
<td>0.34</td>
<td>0.21</td>
<td>1.19</td>
<td></td>
</tr>
</tbody>
</table>

| DoubleLine:Cr Fxd In;I (DBLFX) | -0.34 | 1.48 | 7.64 | 8.29  | 3.22  | 3.63  | 3.32  | -0.02   | 4.66 | 4.11 | 0.63 | 6.86 | 3.48 | 06/01/2013 |
| Bloomberg US Agg Bond Index    | -0.53 | 2.27 | 8.52 | 10.30 | 2.92  | 3.38  | 3.72  | 4.61    | 0.48 | 5.55 | 4.75 | 0.89 | 5.97 | 3.13   |               |
| Difference                    | 0.19 | -0.79 | -0.88 | -2.01 | 0.30  | 0.25  | 0.60  | -0.03   | 1.12 | 1.46 | 0.08 | 0.89 | 0.35 |               |

| Guggenheim:TR Bd;Inst (GIBIX) | -0.47 | 1.65 | 5.36 | 6.04  | 3.76  | 4.27  | 4.84  | -0.94   | 6.49 | 6.20 | 1.23 | 8.25 | 4.23 | 01/01/2015 |
| Bloomberg US Agg Bond Index    | -0.53 | 2.27 | 8.52 | 10.30 | 2.92  | 3.38  | 3.72  | 4.61    | 0.48 | 5.55 | 4.75 | 0.89 | 5.97 | 3.17   |               |
| Difference                    | 0.06 | -0.62 | -3.16 | -4.26 | 0.84  | 0.89  | 2.12  | -0.93   | 2.95 | 3.55 | 0.68 | 2.28 | 1.06 |               |

| Low Duration Fixed Income     | -0.06 | 0.73 | 3.27 | 4.31  | 1.50  | 1.41  | 1.25  | 2.28    | 1.06 | 0.76 | 1.30 | 0.43 | 1.35 | 3.20   | 12/01/2005    |
| ICE BofAML 1-3 Yr US Trsy Index | -0.11 | 0.58 | 3.03 | 4.36  | 1.52  | 1.32  | 1.07  | 1.18    | 1.58 | 0.42 | 0.88 | 0.54 | 0.62 | 2.21   |               |
| Difference                    | 0.05 | 0.15 | 0.24 | -0.05 | -0.02 | 0.09  | 0.18  | 1.10    | -0.52 | 0.34 | 0.42 | -0.11 | 0.73 | 0.99   |               |

| WellsFargo:SD Gv Bd;I (WSGIX) | -0.10 | 0.67 | 3.20 | 4.26  | 1.49  | 1.41  | 1.13  | 1.65    | 1.05 | 0.78 | 1.23 | 0.47 | 1.06 | 1.41   | 01/01/2015    |
| Bloomberg US Gov't 1-3 Yr Bond Index | -0.11 | 0.59 | 3.07 | 4.42  | 1.54  | 1.34  | 1.08  | 1.21    | 1.58 | 0.45 | 0.87 | 0.57 | 0.64 | 1.37   |               |
| Difference                    | 0.01 | 0.08 | 0.13 | -0.16 | -0.05 | 0.07  | 0.05  | 0.44    | -0.53 | 0.33 | 0.36 | -0.10 | 0.42 | 0.04   |               |

| Bank Loans                   | 0.32 | 0.51 | 5.22 | 1.60  | -      | -      | -      | -       | 0.04 | -    | -    | -    | -    | 3.03   | 07/01/2017    |
| S&P/LSTA Lvg'd Loan Index    | 0.47 | 0.99 | 6.79 | 3.10  | 4.53  | 3.98  | 4.11  | 5.22    | 0.44 | 4.12 | 10.16| -0.69| 1.60 | 4.15   |               |
| Difference                   | -0.15 | -0.48 | -1.57 | -1.50 | -      | -      | -      | -       | -0.40 | -    | -    | -    | -1.12 |               |

| Voya: Floating Rate;I (IFRIX)| 0.32 | 0.51 | 5.22 | 1.60  | 3.23  | 3.21  | 3.47  | -0.04   | 2.79 | 7.64 | 0.53 | 1.65 | 3.03 | 07/01/2017 |
| S&P/LSTA Lvg'd Loan Index    | 0.47 | 0.99 | 6.79 | 3.10  | 4.53  | 3.98  | 4.11  | 5.22    | 0.44 | 4.12 | 10.16| -0.69| 1.60 | 4.15   |               |
| Difference                   | -0.15 | -0.48 | -1.57 | -1.50 | -0.77 | -0.64 | -0.40 | -1.33   | -2.52 | 1.22 | 0.05 | -1.12 |       |               |

Performance shown is net of fees. Performance shown is preliminary and subject to change. Manager inception dates shown represent the first full month following initial funding. Indices show "-" for since inception returns when the fund contains more history than the corresponding benchmark. Real Estate funds and the NCREIF ODCE Index (AWA) (Net) are valued on a quarterly basis, with interim months assuming a 0.00% return until the assets are revalued.
Oregon State Bar Professional Liability Fund
Comparative Performance

As of September 30, 2019

<table>
<thead>
<tr>
<th>Real Estate</th>
<th>MTD</th>
<th>QTD</th>
<th>CYTD</th>
<th>1 Year</th>
<th>3 Years</th>
<th>5 Years</th>
<th>7 Years</th>
<th>10 Years</th>
<th>2018</th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
<th>2014</th>
<th>Since Incep.</th>
<th>Inception Date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1.38</td>
<td>1.38</td>
<td>4.70</td>
<td>5.83</td>
<td>6.87</td>
<td>8.72</td>
<td>9.69</td>
<td>10.29</td>
<td>7.02</td>
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<td>8.26</td>
<td>14.88</td>
<td>11.00</td>
<td>6.54</td>
<td>01/01/2005</td>
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<tr>
<td>NCREIF ODCE Index (AWA) (Net)</td>
<td>0.00</td>
<td>0.00</td>
<td>1.98</td>
<td>3.53</td>
<td>5.96</td>
<td>8.12</td>
<td>9.12</td>
<td>9.72</td>
<td>7.36</td>
<td>6.66</td>
<td>7.79</td>
<td>13.95</td>
<td>11.46</td>
<td>6.68</td>
<td></td>
</tr>
<tr>
<td>Difference</td>
<td>1.38</td>
<td>1.38</td>
<td>2.72</td>
<td>2.30</td>
<td>0.91</td>
<td>0.57</td>
<td>0.57</td>
<td>-0.34</td>
<td>-0.18</td>
<td>0.47</td>
<td>0.97</td>
<td>0.93</td>
<td>-0.46</td>
<td>-0.14</td>
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<tr>
<td>Barings Core Property (CF)</td>
<td>1.16</td>
<td>1.16</td>
<td>4.63</td>
<td>6.09</td>
<td>6.53</td>
<td>8.13</td>
<td>8.45</td>
<td>9.34</td>
<td>6.31</td>
<td>6.55</td>
<td>8.62</td>
<td>12.99</td>
<td>8.64</td>
<td>8.72</td>
<td>01/01/2012</td>
</tr>
<tr>
<td>NCREIF ODCE Index (AWA) (Net)</td>
<td>0.00</td>
<td>0.00</td>
<td>1.98</td>
<td>3.53</td>
<td>5.96</td>
<td>8.12</td>
<td>9.12</td>
<td>9.72</td>
<td>7.36</td>
<td>6.66</td>
<td>7.79</td>
<td>13.95</td>
<td>11.46</td>
<td>9.23</td>
<td></td>
</tr>
<tr>
<td>Difference</td>
<td>1.16</td>
<td>1.16</td>
<td>2.65</td>
<td>2.56</td>
<td>0.57</td>
<td>0.01</td>
<td>-0.67</td>
<td>-0.38</td>
<td>-1.05</td>
<td>-0.11</td>
<td>0.83</td>
<td>-0.96</td>
<td>-2.82</td>
<td>-0.51</td>
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</tr>
<tr>
<td>RREEF America REIT II (CF)</td>
<td>1.50</td>
<td>1.50</td>
<td>4.73</td>
<td>5.69</td>
<td>7.04</td>
<td>8.97</td>
<td>10.21</td>
<td>10.62</td>
<td>7.41</td>
<td>6.44</td>
<td>8.12</td>
<td>15.63</td>
<td>11.95</td>
<td>7.21</td>
<td>01/01/2003</td>
</tr>
<tr>
<td>NCREIF ODCE Index (AWA) (Net)</td>
<td>0.00</td>
<td>0.00</td>
<td>1.98</td>
<td>3.53</td>
<td>5.96</td>
<td>8.12</td>
<td>9.12</td>
<td>9.72</td>
<td>7.36</td>
<td>6.66</td>
<td>7.79</td>
<td>13.95</td>
<td>11.46</td>
<td>7.09</td>
<td></td>
</tr>
<tr>
<td>Difference</td>
<td>1.50</td>
<td>1.50</td>
<td>2.75</td>
<td>2.16</td>
<td>1.08</td>
<td>0.85</td>
<td>1.09</td>
<td>0.90</td>
<td>0.05</td>
<td>-0.22</td>
<td>0.33</td>
<td>1.68</td>
<td>0.49</td>
<td>0.12</td>
<td></td>
</tr>
</tbody>
</table>

- In January 2018, assets invested in American Funds EuPc;F2 (AEPFX) were transferred in-kind to American Funds EuPc;F3 (FEUPX). As such, client specific performance shown prior to January 2018 is representative of the F2 share class.
- In April 2016, assets invested in Vanguard TSM Idx;Adm (VTSAX) were transferred in-kind to Vanguard TSM Idx;Inst (VITSX). As such, client specific performance shown prior to April 2016 is representative of the Admiral share class.
- The Actual Allocation and Actual Allocation ex Low Duration Indices are calculated monthly using beginning of month asset class weights applied to each corresponding manager benchmark return.
- The Vanguard Spl TSM Index consists of DJ US TSM Index (formerly known as the DJ Wilshire 5000 Index) through 04/22/2005; MSCI US Brd Mkt Index (USD) (Net) through 06/02/2013; and CRSP US Tot Mkt Index thereafter.

Performance shown is net of fees. Performance shown is preliminary and subject to change. Manager inception dates shown represent the first full month following initial funding. Indices show "-" for since inception returns when the fund contains more history than the corresponding benchmark. Real Estate funds and the NCREIF ODCE Index (AWA) (Net) are valued on a quarterly basis, with interim months assuming a 0.00% return until the assets are revalued.
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<tr>
<th>Page</th>
<th>Description</th>
</tr>
</thead>
<tbody>
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<td>Combined Statement of Net Position</td>
</tr>
<tr>
<td>3</td>
<td>Primary Program Statement of Revenues, Expenses and Changes in Net Position</td>
</tr>
<tr>
<td>4</td>
<td>Primary Program Operating Expenses</td>
</tr>
<tr>
<td>5</td>
<td>Excess Program Statement of Revenues, Expenses and Changes in Net Position</td>
</tr>
<tr>
<td>6</td>
<td>Excess Program Operating Expenses</td>
</tr>
<tr>
<td>7</td>
<td>Combined Investment Schedule</td>
</tr>
</tbody>
</table>
## Oregon State Bar
### Professional Liability Fund
### Combined Primary and Excess Programs
### Statement of Net Position
### 9/30/2019

<table>
<thead>
<tr>
<th>ASSETS</th>
<th>THIS YEAR</th>
<th>LAST YEAR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash</td>
<td>$3,321,253.72</td>
<td>$2,794,640.15</td>
</tr>
<tr>
<td>Investments at Fair Value</td>
<td>58,531,128.17</td>
<td>58,347,841.02</td>
</tr>
<tr>
<td>Assessment Installment Receivable</td>
<td>1,458,483.00</td>
<td>1,634,932.00</td>
</tr>
<tr>
<td>Due from Reinsurers</td>
<td>139,594.85</td>
<td>553,656.06</td>
</tr>
<tr>
<td>Other Current Assets</td>
<td>155,892.95</td>
<td>120,126.02</td>
</tr>
<tr>
<td>Net Fixed Assets</td>
<td>390,269.34</td>
<td>453,042.43</td>
</tr>
<tr>
<td>Claim Receivables</td>
<td>111,531.53</td>
<td>121,778.17</td>
</tr>
<tr>
<td>PERS Deferred Outflow of Resources</td>
<td>1,479,492.46</td>
<td>1,151,573.46</td>
</tr>
<tr>
<td>Other Long Term Assets</td>
<td>2,500.00</td>
<td>2,500.00</td>
</tr>
<tr>
<td><strong>TOTAL ASSETS</strong></td>
<td><strong>$65,590,146.02</strong></td>
<td><strong>$65,180,089.31</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>LIABILITIES AND FUND POSITION</th>
<th>THIS YEAR</th>
<th>LAST YEAR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liabilities:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts Payable and Other Current Liabilities</td>
<td>$156,039.50</td>
<td>$108,908.82</td>
</tr>
<tr>
<td>Due to Reinsurers</td>
<td>$466,689.59</td>
<td>$539,701.38</td>
</tr>
<tr>
<td>PERS Pension Liability</td>
<td>6,053,037.98</td>
<td>4,931,707.98</td>
</tr>
<tr>
<td>Liability for Compensated Absences</td>
<td>423,621.72</td>
<td>380,963.74</td>
</tr>
<tr>
<td>Liability for Indemnity</td>
<td>11,830,949.05</td>
<td>10,805,048.75</td>
</tr>
<tr>
<td>Liability for Claim Expense</td>
<td>14,420,374.63</td>
<td>13,703,980.52</td>
</tr>
<tr>
<td>Liability for Future ERC Claims</td>
<td>3,100,000.00</td>
<td>2,900,000.00</td>
</tr>
<tr>
<td>Liability for Suspense Files</td>
<td>1,500,000.00</td>
<td>1,500,000.00</td>
</tr>
<tr>
<td>Liability for Future Claims Administration (AOE)</td>
<td>2,400,000.00</td>
<td>2,300,000.00</td>
</tr>
<tr>
<td>Excess Ceding Commission Allocated for Rest of Year</td>
<td>229,567.84</td>
<td>243,690.73</td>
</tr>
<tr>
<td>Primary Assessment Allocated for Rest of Year</td>
<td>5,695,234.50</td>
<td>6,088,564.25</td>
</tr>
<tr>
<td>Total Liabilities</td>
<td><strong>$46,275,514.81</strong></td>
<td><strong>$43,502,566.17</strong></td>
</tr>
</tbody>
</table>

**Change in Net Position:**
- Retained Earnings (Deficit) Beginning of the Year | $16,213,455.12 | $20,094,730.19 |
- Year to Date Net Income (Loss)                  | 3,101,176.09   | 1,582,792.95   |

**Net Position**                                    | **$19,314,631.21** | **$21,677,523.14** |

**TOTAL LIABILITIES AND FUND POSITION**             | **$65,590,146.02** | **$65,180,089.31** |
## Oregon State Bar
### Professional Liability Fund
#### Primary Program

**Statement of Revenues, Expenses, and Changes in Net Position**

**9 Months Ended 9/30/2019**

<table>
<thead>
<tr>
<th></th>
<th>YEAR TO DATE ACTUAL</th>
<th>YEAR TO DATE BUDGET</th>
<th>VARIANCE</th>
<th>YEAR TO DATE LAST YEAR</th>
<th>ANNUAL BUDGET</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>REVENUE</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assessments</td>
<td>$16,857,525.75</td>
<td>$17,015,625.00</td>
<td>$158,099.25</td>
<td>$18,026,811.00</td>
<td>$22,687,500.00</td>
</tr>
<tr>
<td>Installment Service Charge</td>
<td>223,227.75</td>
<td>238,500.00</td>
<td>15,272.25</td>
<td>238,881.75</td>
<td>318,000.00</td>
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<tr>
<td>Other Income</td>
<td>147,906.84</td>
<td>102,750.00</td>
<td>(45,156.84)</td>
<td>76,571.14</td>
<td>117,000.00</td>
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<tr>
<td>Investment Return</td>
<td>5,858,033.98</td>
<td>670,302.00</td>
<td>(5,187,731.98)</td>
<td>1,317,265.71</td>
<td>893,734.00</td>
</tr>
<tr>
<td><strong>TOTAL REVENUE</strong></td>
<td>$23,086,694.32</td>
<td>$18,027,177.00</td>
<td>($5,059,517.32)</td>
<td>$19,659,529.60</td>
<td>$24,016,234.00</td>
</tr>
</tbody>
</table>

|                  |                     |                     |          |                        |               |
| **EXPENSE**      |                     |                     |          |                        |               |
| **Provision For Claims:** |               |                     |          |                        |               |
| New Claims at Average Cost | $13,823,000.00 |                     | $12,932,000.00 |                     |               |
| Actuarial Adjustment to Reserves | 177,237.65     |                     | (552,270.45) |                     |               |
| Coverage Opinions | 87,818.48          |                     | 174,366.81   |                     |               |
| General Expense  | 75,372.53          |                     | 55,820.13    |                     |               |
| Less Recoveries & Contributions | (1,987.68)     |                     | (105,856.77) |                     |               |
| Budget for Claims Expense |                     | $13,012,497.00 |                     |                     | $17,350,000.00 |
| **Total Provision For Claims** | $14,161,440.98 | $13,012,497.00 | ($1,148,943.98) | $12,504,059.72       | $17,350,000.00 |

|                  |                     |                     |          |                        |               |
| **Expense from Operations:** |               |                     |          |                        |               |
| Administrative Department | $1,926,497.51    | $2,636,571.00      | $710,073.49   | $1,982,910.61        | $3,510,137.00   |
| Accounting Department | 726,215.71         | 773,597.00         | 47,381.29    | 690,609.40           | 1,022,951.00     |
| Loss Prevention Department | 1,587,045.45   | 1,761,721.00       | 174,675.55   | 1,508,357.79        | 2,348,264.00     |
| Claims Department | 2,244,222.21        | 2,378,899.00       | 134,676.79   | 2,009,773.45        | 3,156,597.00     |
| Allocated to Excess Program | (651,758.94)    | (651,762.00)       | (3.06)       | (715,656.78)        | (869,012.00)     |
| **Total Expense from Operations** | $5,832,221.94  | $6,899,026.00      | $1,066,804.06 | $5,475,994.47       | $9,168,937.00    |

|                  |                     |                     |          |                        |               |
| Depreciation and Amortization | $92,972.25    | $113,256.00        | $20,283.75   | $115,581.75         | $151,000.00     |
| Allocated Depreciation | (16,125.03)      | (16,128.00)        | (2.97)       | (16,499.97)         | (21,500.00)     |
| **TOTAL EXPENSE**  | $20,070,510.14     | $20,008,651.00     | ($61,859.14) | $18,079,135.97      | $26,648,437.00  |

|                  |                     |                     |          |                        |               |
| **NET POSITION - INCOME (LOSS)** | $3,016,184.18 | ($1,985,974.00) | ($5,002,158.18) | $1,580,393.63       | ($2,638,203.00) |
### Oregon State Bar
Professional Liability Fund
Primary Program
Statement of Operating Expense
9 Months Ended 9/30/2019

<table>
<thead>
<tr>
<th>EXPENSE:</th>
<th>CURRENT MONTH</th>
<th>TO DATE</th>
<th>YEAR TO DATE</th>
<th>VARIANCE</th>
<th>LAST YEAR TO DATE</th>
<th>BUDGET</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries</td>
<td>$389,426.60</td>
<td>$3,545,081.77</td>
<td>$3,741,048.00</td>
<td>$195,966.23</td>
<td>$3,355,828.49</td>
<td>$4,988,057.00</td>
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<tr>
<td>Benefits and Payroll Taxes</td>
<td>175,720.29</td>
<td>1,421,427.39</td>
<td>2,093,600.00</td>
<td>672,172.61</td>
<td>1,308,493.63</td>
<td>2,780,976.00</td>
</tr>
<tr>
<td>Investment Services</td>
<td>13,065.62</td>
<td>39,131.23</td>
<td>36,000.00</td>
<td>(3,131.23)</td>
<td>37,045.70</td>
<td>48,000.00</td>
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<tr>
<td>Legal Services</td>
<td>6,096.00</td>
<td>12,381.60</td>
<td>7,497.00</td>
<td>(4,884.60)</td>
<td>10,898.25</td>
<td>10,000.00</td>
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<tr>
<td>Financial Audit Services</td>
<td>0.00</td>
<td>25,000.00</td>
<td>24,500.00</td>
<td>(500.00)</td>
<td>24,000.00</td>
<td>24,500.00</td>
</tr>
<tr>
<td>Actuarial Services</td>
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<td>12,500.00</td>
<td>(14,387.50)</td>
<td>22,957.50</td>
<td>25,000.00</td>
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<tr>
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<td>48,744.00</td>
<td>9,255.72</td>
<td>40,974.88</td>
<td>65,000.00</td>
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<td>0.00</td>
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<td>16,875.00</td>
<td>6,566.93</td>
<td>22,500.00</td>
</tr>
<tr>
<td>Other Professional Services</td>
<td>4,953.15</td>
<td>49,230.84</td>
<td>55,125.00</td>
<td>5,894.16</td>
<td>66,397.95</td>
<td>73,500.00</td>
</tr>
<tr>
<td>Staff Travel</td>
<td>145.49</td>
<td>3,862.94</td>
<td>11,025.00</td>
<td>7,162.06</td>
<td>2,983.29</td>
<td>14,700.00</td>
</tr>
<tr>
<td>Board Travel</td>
<td>273.36</td>
<td>36,101.00</td>
<td>43,128.00</td>
<td>7,027.00</td>
<td>32,370.09</td>
<td>57,500.00</td>
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<tr>
<td>NABRICO</td>
<td>6,170.50</td>
<td>13,768.87</td>
<td>15,650.00</td>
<td>1,861.13</td>
<td>4,024.33</td>
<td>15,650.00</td>
</tr>
<tr>
<td>Training</td>
<td>112.02</td>
<td>18,151.35</td>
<td>27,783.00</td>
<td>9,631.65</td>
<td>22,518.10</td>
<td>37,000.00</td>
</tr>
<tr>
<td>Rent</td>
<td>46,995.75</td>
<td>436,697.23</td>
<td>436,239.00</td>
<td>(458.23)</td>
<td>420,306.94</td>
<td>581,656.00</td>
</tr>
<tr>
<td>Printing and Supplies</td>
<td>12,374.75</td>
<td>69,842.29</td>
<td>58,509.00</td>
<td>(11,333.29)</td>
<td>79,972.68</td>
<td>78,000.00</td>
</tr>
<tr>
<td>Postage and Delivery</td>
<td>342.73</td>
<td>8,708.08</td>
<td>10,350.00</td>
<td>1,641.92</td>
<td>9,494.34</td>
<td>13,800.00</td>
</tr>
<tr>
<td>Equipment Rent &amp; Maintenance</td>
<td>1,228.35</td>
<td>29,321.58</td>
<td>49,869.00</td>
<td>20,547.42</td>
<td>28,834.79</td>
<td>66,500.00</td>
</tr>
<tr>
<td>Telephone</td>
<td>4,138.37</td>
<td>38,147.74</td>
<td>38,250.00</td>
<td>102.26</td>
<td>37,660.68</td>
<td>51,000.00</td>
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<tr>
<td>L P Programs (less Salary &amp; Benefits)</td>
<td>43,506.15</td>
<td>280,371.87</td>
<td>373,563.00</td>
<td>93,191.13</td>
<td>298,232.26</td>
<td>498,050.00</td>
</tr>
<tr>
<td>Defense Panel Training</td>
<td>1,687.03</td>
<td>62,123.26</td>
<td>42,410.00</td>
<td>(19,713.26)</td>
<td>127.52</td>
<td>42,410.00</td>
</tr>
<tr>
<td>Bar Books Grant</td>
<td>16,666.67</td>
<td>150,000.03</td>
<td>150,003.00</td>
<td>2.97</td>
<td>150,000.03</td>
<td>200,000.00</td>
</tr>
<tr>
<td>Insurance</td>
<td>2,719.76</td>
<td>28,554.93</td>
<td>43,839.00</td>
<td>15,284.07</td>
<td>33,399.60</td>
<td>58,450.00</td>
</tr>
<tr>
<td>Library</td>
<td>2,247.44</td>
<td>25,018.13</td>
<td>25,200.00</td>
<td>181.87</td>
<td>26,771.66</td>
<td>33,600.00</td>
</tr>
<tr>
<td>Subscriptions, Memberships &amp; C/C Charť</td>
<td>6,251.63</td>
<td>122,875.78</td>
<td>187,578.00</td>
<td>64,702.22</td>
<td>171,714.01</td>
<td>250,100.00</td>
</tr>
<tr>
<td>Allocated to Excess Program</td>
<td>(72,417.66)</td>
<td>(651,758.94)</td>
<td>(651,762.00)</td>
<td>(3.06)</td>
<td>(715,656.78)</td>
<td>(869,012.00)</td>
</tr>
</tbody>
</table>

**TOTAL EXPENSE** $665,314.00  $5,830,434.75  $6,897,523.00  $1,067,088.25  $5,475,916.87  $9,166,937.00
Oregon State Bar
Professional Liability Fund
Excess Program
Statement of Revenue, Expenses, and Changes in Net Position
9 Months Ended 9/30/2019

<table>
<thead>
<tr>
<th>REVENUE</th>
<th>YEAR TO DATE ACTUAL</th>
<th>YEAR TO DATE BUDGET</th>
<th>VARIANCE</th>
<th>YEAR LAST YEAR</th>
<th>YEAR BUDGET</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ceding Commission</td>
<td>$680,226.80</td>
<td>$708,750.00</td>
<td>$28,523.20</td>
<td>$710,924.87</td>
<td>$945,000.00</td>
</tr>
<tr>
<td>Profit Commission</td>
<td>(49,775.00)</td>
<td>0.00</td>
<td>49,775.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>Installment Service Charge</td>
<td>48,229.00</td>
<td>52,000.00</td>
<td>3,771.00</td>
<td>49,938.00</td>
<td>52,000.00</td>
</tr>
<tr>
<td>Investment Return</td>
<td>103,661.47</td>
<td>14,994.00</td>
<td>(88,667.47)</td>
<td>(5,271.61)</td>
<td>20,000.00</td>
</tr>
<tr>
<td>TOTAL REVENUE</td>
<td>$782,342.27</td>
<td>$775,744.00</td>
<td>($6,598.27)</td>
<td>$755,591.26</td>
<td>$1,017,000.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>EXPENSE</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating Expenses (See Page 6)</td>
<td>$681,225.33</td>
<td>$765,522.00</td>
<td>$84,296.67</td>
<td>$736,691.97</td>
<td>$1,020,700.00</td>
</tr>
<tr>
<td>Allocated Depreciation</td>
<td>$16,125.03</td>
<td>$16,128.00</td>
<td>$2.97</td>
<td>$16,499.97</td>
<td>$21,500.00</td>
</tr>
</tbody>
</table>

| NET POSITION - INCOME (LOSS) | $84,991.91 | ($5,906.00) | ($90,897.91) | $2,399.32 | ($25,200.00) |


## Oregon State Bar
### Professional Liability Fund
#### Excess Program
##### Statement of Operating Expense
9 Months Ended 9/30/2019

<table>
<thead>
<tr>
<th>EXPENSE:</th>
<th>CURRENT MONTH</th>
<th>YEAR TO DATE ACTUAL</th>
<th>YEAR TO DATE BUDGET</th>
<th>VARIANCE</th>
<th>LAST YEAR</th>
<th>ANNUAL BUDGET</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries</td>
<td>$33,856.08</td>
<td>$304,704.72</td>
<td>$356,247.00</td>
<td>$51,542.28</td>
<td>$355,493.97</td>
<td>$475,000.00</td>
</tr>
<tr>
<td>Benefits and Payroll Taxes</td>
<td>13,644.91</td>
<td>122,804.19</td>
<td>131,247.00</td>
<td>8,442.81</td>
<td>135,912.78</td>
<td>175,000.00</td>
</tr>
<tr>
<td>Investment Services</td>
<td>63.02</td>
<td>254.69</td>
<td>153.00</td>
<td>(101.69)</td>
<td>1,193.05</td>
<td>200.00</td>
</tr>
<tr>
<td>Office Expense</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>Allocation of Primary Overhead</td>
<td>24,916.67</td>
<td>224,250.03</td>
<td>224,253.00</td>
<td>2.97</td>
<td>224,250.03</td>
<td>299,000.00</td>
</tr>
<tr>
<td>Reinsurance Placement &amp; Travel</td>
<td>0.00</td>
<td>8,930.60</td>
<td>11,250.00</td>
<td>2,319.40</td>
<td>4,845.99</td>
<td>15,000.00</td>
</tr>
<tr>
<td>Training</td>
<td>0.00</td>
<td>0.00</td>
<td>378.00</td>
<td>378.00</td>
<td>0.00</td>
<td>500.00</td>
</tr>
<tr>
<td>Printing and Mailing</td>
<td>0.00</td>
<td>828.00</td>
<td>2,997.00</td>
<td>2,169.00</td>
<td>919.82</td>
<td>4,000.00</td>
</tr>
<tr>
<td>Program Promotion</td>
<td>795.00</td>
<td>6,785.00</td>
<td>11,250.00</td>
<td>4,465.00</td>
<td>7,285.00</td>
<td>15,000.00</td>
</tr>
<tr>
<td>Other Professional Services</td>
<td>0.00</td>
<td>3,075.00</td>
<td>20,250.00</td>
<td>17,175.00</td>
<td>1,155.00</td>
<td>27,000.00</td>
</tr>
<tr>
<td>Software Development</td>
<td>2,094.75</td>
<td>9,593.10</td>
<td>7,497.00</td>
<td>(2,096.10)</td>
<td>5,636.33</td>
<td>10,000.00</td>
</tr>
</tbody>
</table>

**TOTAL EXPENSE** | **$75,370.43** | **$681,225.33** | **$765,522.00** | **$84,296.67** | **$736,691.97** | **$1,020,700.00**
## Oregon State Bar
Professional Liability Fund
Combined Investment Schedule
9 Months Ended 9/30/2019

<table>
<thead>
<tr>
<th>Dividends and Interest:</th>
<th>CURRENT MONTH</th>
<th>YEAR TO DATE</th>
<th>CURRENT MONTH</th>
<th>YEAR TO DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>THIS YEAR</td>
<td>THIS YEAR</td>
<td>LAST YEAR</td>
<td>LAST YEAR</td>
</tr>
<tr>
<td>Short Term Bond Fund</td>
<td>$7,524.61</td>
<td>$154,433.25</td>
<td>$11,945.86</td>
<td>$160,913.97</td>
</tr>
<tr>
<td>Intermediate Term Bond Funds</td>
<td>46,813.54</td>
<td>389,440.53</td>
<td>37,023.41</td>
<td>307,855.27</td>
</tr>
<tr>
<td>Bank Loans</td>
<td>11,653.45</td>
<td>113,044.16</td>
<td>10,446.55</td>
<td>83,718.52</td>
</tr>
<tr>
<td>Domestic Common Stock Funds</td>
<td>73,568.06</td>
<td>207,059.72</td>
<td>65,729.75</td>
<td>172,880.97</td>
</tr>
<tr>
<td>International Equity Fund</td>
<td>0.00</td>
<td>9,565.99</td>
<td>0.00</td>
<td>5,083.85</td>
</tr>
<tr>
<td>Real Estate</td>
<td>44,172.65</td>
<td>125,975.77</td>
<td>38,556.34</td>
<td>113,834.53</td>
</tr>
<tr>
<td>Hedge Fund of Funds</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>Real Return Strategy</td>
<td>0.00</td>
<td>24,088.33</td>
<td>41,892.07</td>
<td>108,863.09</td>
</tr>
<tr>
<td><strong>Total Dividends and Interest</strong></td>
<td><strong>$183,732.31</strong></td>
<td><strong>$1,023,607.75</strong></td>
<td><strong>$205,593.98</strong></td>
<td><strong>$953,150.20</strong></td>
</tr>
</tbody>
</table>

### Gain (Loss) in Fair Value:

<table>
<thead>
<tr>
<th>Dividends and Interest:</th>
<th>CURRENT MONTH</th>
<th>YEAR TO DATE</th>
<th>CURRENT MONTH</th>
<th>YEAR TO DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>THIS YEAR</td>
<td>THIS YEAR</td>
<td>LAST YEAR</td>
<td>LAST YEAR</td>
</tr>
<tr>
<td>Short Term Bond Fund</td>
<td>($9,725.56)</td>
<td>$86,893.75</td>
<td>($17,089.21)</td>
<td>($146,228.97)</td>
</tr>
<tr>
<td>Intermediate Term Bond Funds</td>
<td>(122,519.69)</td>
<td>671,414.26</td>
<td>(86,038.69)</td>
<td>(317,404.71)</td>
</tr>
<tr>
<td>Bank Loans</td>
<td>(2,898.86)</td>
<td>23,975.57</td>
<td>5,494.56</td>
<td>5,050.28</td>
</tr>
<tr>
<td>Domestic Common Stock Funds</td>
<td>193,421.35</td>
<td>2,339,566.31</td>
<td>(43,402.54)</td>
<td>1,154,893.04</td>
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<tr>
<td>International Equity Fund</td>
<td>369,546.05</td>
<td>1,324,937.38</td>
<td>(12,328.25)</td>
<td>(512,952.96)</td>
</tr>
<tr>
<td>Real Estate</td>
<td>30,502.76</td>
<td>116,768.98</td>
<td>57,009.85</td>
<td>167,734.18</td>
</tr>
<tr>
<td>Hedge Fund of Funds</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>Real Return Strategy</td>
<td>0.00</td>
<td>374,531.45</td>
<td>183,008.35</td>
<td>7,753.04</td>
</tr>
<tr>
<td><strong>Total Gain (Loss) in Fair Value</strong></td>
<td><strong>$458,326.05</strong></td>
<td><strong>$4,938,087.70</strong></td>
<td><strong>$86,654.07</strong></td>
<td><strong>$358,843.90</strong></td>
</tr>
</tbody>
</table>

### TOTAL RETURN

| TOTAL RETURN | **$642,058.36** | **$5,961,695.45** | **$292,248.05** | **$1,311,994.10** |

### Portions Allocated to Excess Program:

<table>
<thead>
<tr>
<th>Dividends and Interest</th>
<th>CURRENT MONTH</th>
<th>YEAR TO DATE</th>
<th>CURRENT MONTH</th>
<th>YEAR TO DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$3,123.45</td>
<td>$16,883.56</td>
<td>$4,153.00</td>
<td>$29,926.34</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Gain (Loss) in Fair Value</th>
<th>CURRENT MONTH</th>
<th>YEAR TO DATE</th>
<th>CURRENT MONTH</th>
<th>YEAR TO DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>7,791.54</td>
<td>86,777.91</td>
<td>1,750.41</td>
<td>(35,197.95)</td>
</tr>
</tbody>
</table>

### TOTAL ALLOCATED TO EXCESS PROGRAM

| **$10,914.99** | **$103,661.47** | **$5,903.41** | **($5,271.61)** |
Oregon State Bar  
Professional Liability Fund  
Excess Program  
Balance Sheet  
9/30/2019

### ASSETS

<table>
<thead>
<tr>
<th></th>
<th>THIS YEAR</th>
<th>LAST YEAR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash</td>
<td>$572,156.34</td>
<td>$627,540.60</td>
</tr>
<tr>
<td>Assessment Installment Receivable</td>
<td>204.00</td>
<td>0.00</td>
</tr>
<tr>
<td>Due from Reinsurers</td>
<td>139,594.85</td>
<td>553,656.06</td>
</tr>
<tr>
<td>Investments at Fair Value</td>
<td>1,959,638.95</td>
<td>1,594,297.61</td>
</tr>
<tr>
<td><strong>TOTAL ASSETS</strong></td>
<td><strong>$2,671,594.14</strong></td>
<td><strong>$2,775,494.27</strong></td>
</tr>
</tbody>
</table>

### LIABILITIES AND FUND EQUITY

<table>
<thead>
<tr>
<th></th>
<th>THIS YEAR</th>
<th>LAST YEAR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liabilities:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts Payable &amp; Refunds Payable</td>
<td>$2,076.12</td>
<td>$2,827.78</td>
</tr>
<tr>
<td>Due to Primary Fund</td>
<td>$0.00</td>
<td>$191.60</td>
</tr>
<tr>
<td>Due to Reinsurers</td>
<td>466,689.59</td>
<td>539,701.38</td>
</tr>
<tr>
<td>Ceding Commission Allocated for Remainder of Year</td>
<td>229,567.84</td>
<td>243,690.73</td>
</tr>
<tr>
<td><strong>Total Liabilities</strong></td>
<td><strong>$698,333.55</strong></td>
<td><strong>$786,411.49</strong></td>
</tr>
</tbody>
</table>

Net Position

<table>
<thead>
<tr>
<th></th>
<th>THIS YEAR</th>
<th>LAST YEAR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net Position (Deficit) Beginning of Year</td>
<td>$1,888,268.68</td>
<td>$1,986,683.46</td>
</tr>
<tr>
<td>Year to Date Net Income (Loss)</td>
<td>84,991.91</td>
<td>2,399.32</td>
</tr>
<tr>
<td><strong>Total Net Position</strong></td>
<td><strong>$1,973,260.59</strong></td>
<td><strong>$1,989,082.78</strong></td>
</tr>
</tbody>
</table>

**TOTAL LIABILITIES AND FUND EQUITY**  

|                        | **$2,671,594.14** | **$2,775,494.27** |
# Oregon State Bar Professional Liability Fund Primary Program
## Balance Sheet
### 9/30/2019

### ASSETS

<table>
<thead>
<tr>
<th>Description</th>
<th>This Year</th>
<th>Last Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash</td>
<td>$2,749,097.38</td>
<td>$2,167,099.55</td>
</tr>
<tr>
<td>Investments at Fair Value</td>
<td>56,571,489.22</td>
<td>56,753,543.41</td>
</tr>
<tr>
<td>Assessment Installment Receivable</td>
<td>1,458,279.00</td>
<td>1,634,932.00</td>
</tr>
<tr>
<td>Due From Excess Fund</td>
<td>0.00</td>
<td>191.60</td>
</tr>
<tr>
<td>Other Current Assets</td>
<td>155,892.95</td>
<td>119,934.42</td>
</tr>
<tr>
<td>Net Fixed Assets</td>
<td>390,269.34</td>
<td>453,042.43</td>
</tr>
<tr>
<td>Claim Receivables</td>
<td>111,531.53</td>
<td>121,778.17</td>
</tr>
<tr>
<td>Other Long Term Assets</td>
<td>2,500.00</td>
<td>2,500.00</td>
</tr>
<tr>
<td>PERS Deferred Outflow of Resources</td>
<td>1,479,492.46</td>
<td>1,151,573.46</td>
</tr>
<tr>
<td>TOTAL ASSETS</td>
<td>$62,918,551.88</td>
<td>$62,404,595.04</td>
</tr>
</tbody>
</table>

### LIABILITIES AND FUND EQUITY

<table>
<thead>
<tr>
<th>Description</th>
<th>This Year</th>
<th>Last Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liabilities:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts Payable and Other Current Liabilities</td>
<td>$153,963.38</td>
<td>$105,889.44</td>
</tr>
<tr>
<td>PERS Pension Liability</td>
<td>6,053,037.98</td>
<td>4,931,707.98</td>
</tr>
<tr>
<td>Liability for Compensated Absences</td>
<td>423,621.72</td>
<td>380,963.74</td>
</tr>
<tr>
<td>Liability for Indemnity</td>
<td>11,830,949.05</td>
<td>10,805,048.75</td>
</tr>
<tr>
<td>Liability for Claim Expense</td>
<td>14,420,374.63</td>
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<td>Liability for Future ERC Claims</td>
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<td>Liability for Suspense Files</td>
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<td>Liability for Future Claims Administration (ULAE)</td>
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<td>Assessment and Installment Service Charge Allocated for Remainder of Year</td>
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<td>6,088,564.25</td>
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<tr>
<td>Total Liabilities</td>
<td>$45,577,181.26</td>
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<td>Net Position</td>
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<td>Net Position (Deficit) Beginning of the Year</td>
<td>$14,325,186.44</td>
<td>$18,108,046.73</td>
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<td>Year to Date Net Income (Loss)</td>
<td>3,016,184.18</td>
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<td>Total Net Position</td>
<td>$17,341,370.62</td>
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<td>TOTAL LIABILITIES AND FUND EQUITY</td>
<td>$62,918,551.88</td>
<td>$62,404,595.04</td>
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</table>
**Oregon State Bar**  
**Professional Liability Fund**  
**Primary Program**  

**Statement of Revenues, Expenses, and Changes in Net Position**  
8 Months Ended 8/31/2019  

<table>
<thead>
<tr>
<th></th>
<th>September 30 2019</th>
<th>September 30 2019</th>
<th>December 31 2019</th>
<th>December 31 2019</th>
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<tbody>
<tr>
<td></td>
<td>YEAR TO DATE</td>
<td>YEAR TO DATE</td>
<td>PROJECTION TO</td>
<td>BUDGET TO</td>
</tr>
<tr>
<td></td>
<td>ACTUAL</td>
<td>BUDGET</td>
<td>YEAREND</td>
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<td>VARIANCE</td>
<td>VARIANCE</td>
<td>VARIANCE</td>
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</tr>
<tr>
<td><strong>REVENUE</strong></td>
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<td>Assessments</td>
<td>$16,857,526</td>
<td>$17,015,625</td>
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<td>Installment Service Charge</td>
<td>$223,228</td>
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<td>($15,272)</td>
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<td>Other Income</td>
<td>$147,907</td>
<td>$102,750</td>
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<td>Investment Return</td>
<td>$5,858,034</td>
<td>$670,302</td>
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<td><strong>TOTAL REVENUE</strong></td>
<td>$23,086,695</td>
<td>$18,027,177</td>
<td>$5,059,518</td>
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<tr>
<td><strong>EXPENSE</strong></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Provision For Claims:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New Claims at Average Cost</td>
<td>$13,823,000</td>
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<td>$18,730,000</td>
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<tr>
<td>Actuarial Adjustment to Reserves</td>
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<tr>
<td>Coverage Opinions</td>
<td>$87,818</td>
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<td>$110,000</td>
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<tr>
<td>General Expense</td>
<td>$75,373</td>
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<td></td>
<td>$110,000</td>
</tr>
<tr>
<td>Less Recoveries &amp; Contributions</td>
<td>($1,988)</td>
<td></td>
<td></td>
<td>($2,000)</td>
</tr>
<tr>
<td>Budget for Claims Expense</td>
<td></td>
<td>$13,012,497</td>
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<td></td>
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<tr>
<td><strong>Total Provision For Claims</strong></td>
<td>$14,161,442</td>
<td>$13,012,497</td>
<td>$1,148,945</td>
<td>$19,373,000</td>
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<tr>
<td><strong>Expense from Operations:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Administrative Department</td>
<td>$1,926,498</td>
<td>$2,636,571</td>
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<td>Accounting Department</td>
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<td>Claims Department</td>
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<td>Allocated to Excess Program</td>
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<td><strong>Total Expense from Operations</strong></td>
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<td>Depreciation and Amortization</td>
<td>$92,972</td>
<td>$113,256</td>
<td>($20,284)</td>
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<td>Allocated Depreciation</td>
<td>($16,125)</td>
<td>($16,128)</td>
<td>$3</td>
<td>($21,500)</td>
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<tr>
<td><strong>TOTAL EXPENSE</strong></td>
<td>$20,070,511</td>
<td>$20,008,651</td>
<td>$61,860</td>
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<tr>
<td><strong>NET POSITION - INCOME (LOSS)</strong></td>
<td>$3,016,184</td>
<td>($1,981,474)</td>
<td>$4,997,658</td>
<td>($988,014)</td>
</tr>
</tbody>
</table>
PROJECTIONS TO DECEMBER 31 2019 VS BUDGET

1. 914 claims for the year/ 890 budgeted

2. $19,373,000 total cost of claims/$17,350,000 budgeted

3. 8.75% ROI/4.5% budgeted

4. 6848 full pay attorneys/6830 budgeted

5. $22,600,000 assessment/$22,687,000 budgeted

6. $425,000 increase to claims liability/$150,000 budgeted

7. $9,070,356 operations expense/$9,168,937 budgeted

8. ($988,014) Net Position loss/($2,638,203) budgeted
The Professional Liability Fund ("PLF") is an instrumentality of the Oregon State Bar created pursuant to powers delegated to it in ORS 9.080(2)(a). Pursuant to this statute, the Board of Governors of the Oregon State Bar created a professional liability fund (the Professional Liability Fund) not subject to state insurance law. The initial PLF Primary Coverage Plan ("Plan") developed to implement the Board of Governors' decision, and all subsequent changes to the Plan, are approved by both the Board of Directors of the Professional Liability Fund and the Board of Governors.

The Plan is not intended to cover all claims that can be made against Oregon lawyers. The limits, exclusions, and conditions of the Plan are in place to enable the PLF to meet the statutory requirements and to meet the Mission and Goals set forth in Chapter One of the PLF Policies, including, “To provide the mandatory professional liability coverage consistent with a sound financial condition, superior claims handling, efficient administration, and effective loss prevention.” The limits, exclusions, and conditions of the Plan are to be fairly and objectively construed for that purpose.

Because the Plan has limits and exclusions, members of the Oregon State Bar are encouraged to purchase excess malpractice coverage and coverage for excluded claims through general liability and other insurance policies. Lawyers and their firms should consult with their own insurance agents as to available coverages. Excess malpractice coverage is also available through the PLF.
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INTRODUCTION
Effective 1.1.2020

Throughout this Professional Liability Fund (“PLF”) Primary Coverage Plan (“Plan”): You and Your refer to the Named Party shown in the Declarations; Plan Year means the period of January 1 through December 31 of the calendar year for which this Plan was issued; and Coverage Period means the coverage period shown in the Declarations under the heading “Coverage Period.”

When terms appear in bold, with the first letter capitalized, they have the defined meanings set forth in the Plan. A List and Index of Defined Terms is attached as an Appendix.

SECTION I – COVERAGE AGREEMENT

Subject to the terms, conditions, definitions, exclusions, and limitations set forth in this Plan and the applicable Limit of Coverage and Claims Expense Allowance, as defined in Section VII, the coverage provided by this Plan is as follows:

A. Indemnity

The PLF will pay all sums a Covered Party is Legally Obligated to pay as Damages as a result of a Claim arising from a Covered Activity to which this Coverage Period applies, as determined by the rules set forth in Section IV.

A Claim means a demand for Damages, or written notice to a Covered Party of an intent to hold a Covered Party liable as a result of a Covered Activity, if such notice might reasonably be expected to result in an assertion of a right to Damages.

Legally Obligated to pay Damages means a Covered Party is required to make actual payment of monetary Damages and is not protected or absolved from actual payment of Damages by reason of any covenant not to execute, other contractual agreement of any kind, or a court order, preventing the ability of the claimant to collect money Damages directly from the Covered Party.

Damages means monetary compensation a Covered Party must pay for loss and does not include:

a. Fines; penalties, statutorily enhanced damages, or enhanced prevailing fees;
b. Punitive or exemplary damages;
c. The return, forfeiture, disgorgement, restitution, reduction, or offset of any fees, costs, expenses or disbursements paid to, charged by, or owed to any Covered Party or to any Law Entity with which any Covered Party was associated at the time any such fees, costs, expenses or disbursements were paid, charged, or incurred, including but not limited to fees, costs, expenses or disbursements alleged to be excessive, not earned, unnecessary, ill-advised, or caused, in whole or in part, by any alleged negligent advice;
d. Rescission, injunctions, accountings, restitution, equitable relief;
e. Any personal profit or advantage to a Covered Party;
f. Any award of attorney fees, costs, or interest arising from any claim referenced in (a) through (d) above, or from any excluded claim.

The following illustrative examples, not intended to be exhaustive, are provided for the purpose of assisting a Covered Party or court in interpreting the PLF’s intent as to the scope of Damages covered under the Plan:

Example 1: Attorney A sues Client for unpaid fees; Client counterclaims for the return of fees already paid to Attorney A, which allegedly were excessive. Because this is not a claim for Damages, it is not covered.

Example 2: Attorney B allows a default to be taken against Client, and bills an additional $2,500 in attorney fees incurred by Attorney B in his successful effort to get the default set aside. Client pays the bill but later sues Attorney B to recover the fees paid. This is not a claim for Damages, as defined in the Plan. Therefore, it is not covered.
Example 3: Attorney C writes a demand letter to Client for unpaid fees and then files a lawsuit for collection of the fees. Client counterclaims for unlawful debt collection. Under the definition of Damages, there is no coverage for the claim. The same is true if Client is the plaintiff and sues for unlawful debt collection in response to the demand letter from Attorney C.

Example 4: Attorney D negotiates a fee and security agreement with Client on behalf of Attorney D’s own firm. Other firm members, not Attorney D, represent Client. Attorney D later leaves the firm, Client disputes the fee and security agreement, and the firm sues Attorney D for negligence in representing the firm. Under the definition of Damages, there is no coverage for the claim.

Example 5: Attorney E takes a security interest in stock belonging to Client as security for fees. Client fails to pay the fees, and Attorney E executes on the stock and becomes the owner. Client sues for recovery of the stock and damages. Under the definition of Damages, there is no coverage for the claim. The same is true if Attorney E receives the stock as a fee and is sued later for recovery of the stock or damages.

Example 6: Attorney F advises client to sue a third party, charging substantial fees to file and litigate the suit. Client receives a very small recovery and sues Attorney F alleging that Attorney F was negligent in advising Client to sue the third party. Client sues Attorney F to recover the fees and costs Client spent or owes for pursuing the third party claim. Client alleges Attorney F should have realized the cost of pursuing the claim was not justified. This claim is not covered because the amounts sought by Client are not Damages. The same is true if Client claims that Attorney F was negligent for not advising Client that Attorney F, or another attorney, may have agreed to pursue the claim for a contingent fee.

Example 7: Attorney G fails to properly request attorney fees from an opposing party. As a result, Client sues Attorney G because Client could have recovered fees if Attorney G had properly pursued them. This claim seeks Damages covered under the Plan.

B. Defense

1. The PLF will defend a Covered Party against any Suit seeking Damages to which this Plan applies until the Claims Expense Allowance and the Limit of Coverage are exhausted. The PLF is not bound by any Covered Party’s agreement to resolve a dispute through arbitration or any other alternative dispute resolution proceeding and has no duty to defend or indemnify regarding any dispute handled or resolved in this manner without its consent.

   Suit means a civil lawsuit. Suit also includes an arbitration or other alternative dispute resolution proceeding only if the PLF expressly consents to it.

2. The PLF has the sole right to select and appoint defense counsel, to control the defense and investigation of a Claim and, in its discretion, to settle any Claim to which this Plan applies. The PLF has no duty to contribute to the settlement of a Claim based on projected defense costs or on potential liability arising from uncovered claims. Subject to its sole discretion, the PLF may also elect to take steps, or make expenditures to investigate, prevent, mitigate, review, or repair any Claim or matter that may create the potential for a Claim.

3. The PLF will pay Claims Expense the PLF incurs.

   Claims Expense means: fees and expenses charged by any attorney designated by the PLF; all other fees, costs, and expenses incurred by the PLF resulting from its investigation, adjustment, defense, prevention, mitigation, review, repair, or appeal of a Claim, or any matter that may create the potential for a Claim; or fees charged by any attorney designated by the Covered Party with the PLF’s written consent. The PLF’s costs for compensation of its regular employees are not considered Claims Expense and do not reduce the available Limit of Coverage.

4. Notwithstanding Exclusions 2 and 4 in Section VI, the PLF will defend Claims for which coverage is excluded under Exclusion 4, and Claims for malicious prosecution, abuse of process, and wrongful initiation of civil proceedings, provided such Claims arise out of Your Covered Activities and are not otherwise excluded by other applicable exclusions in this Plan. The PLF, however, will not have any duty to indemnify regarding any matter it defends pursuant to this provision.
5. The PLF does not have a duty to defend any Claim, or the portion of any Claim, that is not a Claim for Damages, as defined in Section I A. In the event the PLF voluntarily agrees to defend any Claim, or any portion of a Claim, that does not seek Damages, it will be subject to the Covered Party's agreement that the Covered Party will cooperate with the PLF's attempt to settle or dismiss any alleged Claim for Damages that may also be alleged. Following any such dismissal or settlement the PLF will have the right to withdraw from the defense of any remaining claim.

C. Exhaustion of Limits

The PLF is not obligated to investigate, defend, pay, or settle any Claim after the applicable Limit of Coverage and Claims Expense Allowance have been exhausted.

D. No Prior Knowledge or Prior Coverage

This Plan applies only to a Covered Activity that occurred after the Retroactive Date shown in the Declarations and either: (a) during the Coverage Period, or (b) before the Coverage Period if (i) on the effective date of this Plan, You had no knowledge of any Claim having been asserted or of any facts or circumstances that You were aware, or reasonably should have been aware, could reasonably result in a Claim arising out of the Covered Activity and (ii) there is no prior Plan or policy that provides coverage for such liability or Claim, whether or not the available limits of such prior Plan or policy are sufficient to pay any liability or Claim.

E. Coverage Territory

This Plan applies to Suits brought in the United States, its territories, or possessions, within the jurisdiction of any Indian tribe in the United States, or to any Suit brought in Canada. It does not apply to Suits in any other jurisdiction, or to any Suit to enforce a judgment rendered in any other such jurisdiction.

SECTION II – WHO IS A COVERED PARTY?

Only the following are Covered Parties under this Plan:

A. The Individual Attorney Named in the Declarations

You are a Covered Party under this Plan, or in the event of Your death, adjudicated incapacity, or bankruptcy, Your conservator, guardian, trustee in bankruptcy, or legal or personal representative, when acting in such capacity, is a Covered Party, regarding any Claim to which this Plan applies, provided, at the time of the error, omission, negligent act, or breach of duty on which such Claim is based: (1) You were engaged in Private Practice; (2) You were licensed to practice in Oregon; and (3) Your Principal Office was in Oregon.

Private Practice means providing Professional Legal Services or Special Capacity Services through a Law Entity. Private Practice does not include:

Your work or conduct as an employee of any entity that is not a Law Entity, including but not limited to any private entity or any governmental body, subdivision, or agency, whether or not You are employed as a public official or employee, if You are subject to the direction and control of the non-Law Entity regarding the means and manner of providing services and are paid on a salaried basis, or hourly employee basis, as opposed to being retained as an independent contractor, paid on a fee for service or hourly fee basis; or

Your work or conduct in any other capacity that comes within the defense and indemnity provisions of ORS 30.285 and 30.287, unless the public body rejects any duty to defend and indemnify You. If the public body rejects Your defense and indemnity, the PLF will provide coverage, provided the Claim relates to a Covered Activity to which this Plan would otherwise apply, and the PLF will be subrogated to all Your rights against the public body.
For purposes of determining the location of Your Principal Office, a law office is a location held out to the public as Your law office. If You have only one law office, then that is the location of Your Principal Office. If You have two or more law offices and any of them is in Oregon, Your Principal Office is in Oregon if the total amount of time You spend engaged in Private Practice in such Oregon law office locations is greater than 50% of the time You engage in Private Practice in all law office locations when measured over the course of the 12 months prior to January 1st of each year. If You do not have a law office, Your Principal Office is in Oregon if: You reside in Oregon; or, if You reside outside Oregon but are not an active member of the bar of the jurisdiction where You reside.

B. Law Entities Legally Liable for Your Covered Activities

A Law Entity legally liable for any Claim against You, based on Your Covered Activities is also a Covered Party under this Plan. However, in the event the Claim also involves claims against other attorneys not covered under a PLF Plan, any defense or indemnity for the Law Entity under this Plan is limited to that portion of the Law Entity’s legal liability that relates to Your Covered Activities.

A Law Entity means a professional corporation, partnership, limited liability partnership, limited liability company, or sole proprietorship that engages in the Private Practice of law in Oregon.

SECTION III – WHAT IS A COVERED ACTIVITY?

A. What Qualifies as a Covered Activity?

This Plan does not apply to all activities an attorney may engage in while practicing law. To fall within coverage, a Claim must arise out of a Covered Activity, subject to the following definitions, restrictions, and limitations, and all applicable exclusions in this Plan.

A Covered Activity is an error, omission, negligent act, or breach of duty committed in the course of providing or failing to provide Professional Legal Services or Special Capacity Services, as limited below, by:

a. You;

b. Another attorney for whose conduct You are legally liable, in Your capacity as an attorney, but only if the attorney was covered under a PLF Plan at the time of the act, error, omission, negligent act, or breach of duty; or

c. Your Non Attorney employee, for whose conduct You are legally liable in Your capacity as an attorney, but only to the extent such employee was assisting You in providing Professional Legal Services or Special Capacity Services.

Non Attorney employee includes employees who are not attorneys, as well as employees who have a law degree but are not engaged in the practice of law in Oregon or any other state.

B. What Are Professional Legal Services?

Professional Legal Services are legal services or legal advice provided in a Covered Party’s capacity as an attorney in Private Practice, including services a Covered Party provides as a mediator or arbitrator. Professional Legal Services do not include activities such as, but not limited to, the following:

a. Any conduct in carrying out the commercial or administrative activities associated with practicing law, including but not limited to activities such as collecting fees or costs, guaranteeing a client will pay third party vendors or service providers such as court reporters, depositing, endorsing, or otherwise transferring negotiable instruments, depositing or withdrawing any money or other instruments into or from trust accounts or other bank accounts, any activities relating to or arising from the receipt, transmittal, or
negotiation of counterfeit or fraudulent checks or instruments, or any activities that require no specialized skill or training, such as paying bills on time or not incurring unnecessary expenses;

b. Business-related activities or services, including operating, managing, or controlling any property, business property, business, or institution in a manner similar to an owner, officer, director, partner, or shareholder, whether as a trustee or otherwise;

c. Activities as an officer, director, partner, employee, shareholder, member, or manager of any entity except a Law Entity;

d. Activities on any board, including but not limited to serving on the board of trustees of a charitable, educational, or religious institution, or a real estate or other investment syndication;

e. Serving as trustee for the liquidation of any business or institution, or as trustee for the control of a union or other institution; or

f. Non-legal services such as architectural, engineering, accounting, lobbying, marketing, advertising, trade services, public relations, real estate appraisal, real estate development, brokerage services, or other such services.

C. Special Capacity Services

Special Capacity Services provided by a Covered Party, arising out of a Special Capacity Relationship, are Covered Activities but only with respect to a Claim made by or for the benefit of a beneficiary of the Special Capacity Relationship and provided such Claim does not arise as a result of a claim by a third party relating to business activities or services provided by the Covered Party in the course of the Special Capacity Relationship.

Special Capacity Relationship means the Covered Party is formally named or designated to act in the capacity of a Personal Representative, Administrator, Conservator, Executor, Guardian Ad Litem, Special Representative pursuant to ORS 130.120 or a successor statute, or a Trustee administering a formal trust instrument for the benefit of a beneficiary.

Special Capacity Services means certain services commonly provided by an attorney in the course of a Special Capacity Relationship for the purposes of administering an estate or trust in accordance with applicable law and/or performing the legally required duties and obligations owed to beneficiaries of Special Capacity Relationships. Special Capacity Services do not include:

a. Business-related services, including but not limited to operating, managing, or controlling any property, business property, business, or institution, whether owned by the estate or trust or otherwise, in a manner similar to an owner, officer, director, partner, or shareholder; or

b. Services provided by a Covered Party that generally fall within the scope of services commonly provided by another type of professional such as an accountant, tax professional, financial planner or advisor, appraiser, architect, engineer, surveyor, real estate agent, or other such professional, or by a person in another trade or occupation such as a contractor, landscaper, gardener, caregiver, caretaker, housekeeper, or similar service provider.

SECTION IV – WHAT IS THE APPLICABLE COVERAGE PERIOD?

A. Date of Claim

Subject to Subsection IV B, the Coverage Period in effect on the earliest of the following dates applies to a Claim or matter:

1. The date a lawsuit is first filed, or an arbitration or alternative dispute resolution proceeding is first initiated against a Covered Party under this Plan;
2. The date the PLF first becomes aware of a matter involving facts or circumstances that could reasonably result in a Claim against a Covered Party under this Plan;

3. The date any Covered Party under this Plan first becomes aware of a matter involving facts or circumstances that could reasonably result in a Claim against a Covered Party under this Plan;

4. The date any Covered Party under this Plan receives notice of a Claim;

5. The date the PLF receives notice of a Claim against a Covered Party under this Plan; or

6. If Subsections 1 through 5 do not apply, the date the PLF opens a file in order to take steps and/or make expenditures, for the purpose of investigation, mitigation, review, or prevention of any potential Claim against a Covered Party under this Plan.

In the case of matters falling only within subsection 6, in the event there is any subsequent Claim against a Covered Party under this Plan, relating to or arising from such matter, the Plan Year is the year the Claim is asserted, but the Limit of Coverage and/or Claims Expense Allowance for the Plan Year applicable to such Claim is reduced by the amount the PLF spent on the matter.

B. Special Rule Regarding Coverage Period Applicable to Related Claims Against Associated Attorneys

If any Claim against a Covered Party under this Plan is Related to one or more Related Claim(s) against any Associated Attorney, the Coverage Period in effect on the earliest of the following dates applies to the Claim:

1. The date a lawsuit was first filed, or an arbitration or alternative dispute resolution proceeding was initiated with respect to the earliest of the Related Claims;

2. The date the PLF first became aware of facts or circumstances that could reasonably result in the earliest of the Related Claims;

3. The date any Covered Party under this Plan first became aware of facts or circumstances that could reasonably result in the earliest of the Related Claims;

4. The first date any Associated Attorney first became aware of facts or circumstances that could reasonably result in the earliest of the Related Claims;

5. The date the PLF received notice of the earliest Related Claim;

6. The date any Covered Party under this Plan received notice of the earliest Related Claim; or

7. The first date any Associated Attorney received notice of the earliest Related Claim.

Associated Attorney means any attorney who, at the time of the representation, advice, or activity at issue, or during any portion of such representation, advice, or activity: (1) was a member, partner, associate, of counsel, or contract attorney, in the same Law Entity with You; or (2) worked in association with You, or as co-counsel with You, regarding the representation, advice, or activity that is the subject of the Claim(s).

If You did not have a PLF Plan in effect on the date applicable to the earliest Related Claim pursuant to this subsection IV B, and You have no other insurance from any source that is applicable to the Claim, regardless of whether the available limits of such policy are sufficient to cover liability for the Claim, any applicable Coverage Period for the Related Claim against You is determined using the method set forth in Section IV A.

The Plan Year applicable to Related Claims against attorneys who are not Associated Attorneys is determined pursuant to Section IV A.

The foregoing provisions regarding Related Claims involving Associated Attorneys does not increase the $300,000 total maximum limit applicable to all Related Claims, whether against an Associated Attorney, or against any other attorney or Law Entity.
SECTION V – WHAT ARE RELATED CLAIMS?

A. Related Claims

A Claim against You may be Related to another Claim(s) against You and/or to a Claim(s) against other attorneys covered under other PLF Plans. If Claims are Related, special rules, set forth in Section VII C, govern the total amount the PLF will pay in defense and indemnity of all such Claims.

Subject only to the exceptions set forth below, two or more Claims are Related when they are based on or arise out of facts, practices, circumstances, situations, transactions, occurrences, Covered Activities, damages, liabilities, or the relationships of the people or entities involved (including clients, claimants, attorneys, and/or other advisors) that are logically or causally connected or linked or share a common bond or nexus.

B. General Examples of Related Claims

Subject only to the exceptions set forth in Section V B, general examples of Related Claims include, but are not limited to:

1. Claims based on secondary or dependent liability, including vicarious liability, failure to supervise, or negligent referral;

2. Multiple Claims arising out of the same transaction or occurrence, or series of transactions or occurrences;

3. Claims arising from a method, pattern, or practice in fact used or adopted by one or more Covered Parties or Law Entities representing multiple clients in similar matters;

4. Claims arising from successive or collective errors each that cause or contribute to single or multiple clients’ and/or claimants’ harm, or cumulatively enhance their damages or losses; and

5. Claims alleged as part of a class action or purported class action.

C. Exceptions to Related Claims

A Claim that would otherwise fall within the definition in Section V A is not Related to another Claim if:

1. The Claim is made against attorneys and/or Law Entities who (a) acted independently of each other; and (b) represented different clients or groups of clients whose interests were adverse; and (c) the claimants do not rely on any common theory of liability or damage; or

2. The Claim is made against attorneys and/or Law Entities: (1) who are not Associated Attorneys; (2) acted independently of You and/or Your Law Entity; (3) were engaged to provide legal services for the purpose of accomplishing an entirely separate and independent objective or set of objectives; and (4) the claimants do not rely on a common theory of liability or damage. Without limitation of this provision, successor or appellate attorneys and/or Law Entities are not included in this exception and claims against them are Related. Any Claim comparable to any of the “Examples of Claims that are Related,” below, are Related and not included in this exception.

An Associated Attorney means any attorney or Law Entity who, at the time of the representation, advice, or activity at issue, or during any portion of such representation, advice, or activity: (a) was a member, partner, associate, of counsel, or contract attorney, in the same Law Entity with You; or (b) worked in association with You, or as co-counsel with You, regarding the representation, advice, or activity that is the subject of the Claim(s).
D. Illustrative Examples

The PLF provides the following examples, not intended to be exhaustive, to assist a Covered Party or court in interpreting the PLF’s intent as to which Claims are considered to be Related. In the event of any conflict between the intent of Section V, expressed in general terms, and the more specific intent illustrated by the following examples, the intent illustrated by the examples prevails.

Examples of Claims that ARE Related:

Example 1: Attorney A of Firm X refers a client to Attorney B, a new associate in Firm Y. Attorney B commits malpractice. Client asserts claims against Attorney B, various attorneys who were partners in Firm Y at the time of the malpractice, and Firm Y. Client also asserts a claim against Attorney A and Firm X for negligent referral. All claims for negligent referral are Related to the claim on which they are based. Therefore, the claims against Attorney A and Firm X are Related to the claims against Attorney B and Firm Y. The claims against Attorney B and the partners in Firm Y are also Related because they are based on secondary or dependent liability. Even if some of the lawyers are at different firms at the time of the claims, all claims are Related and all attorneys share a single limit.

Example 2: Client wants to obtain investors for an investment fund and consults Attorney A. Attorney A writes a tax opinion for an investment offering. Attorney B, in the same firm as Attorney A, assembles the offering circular for the investment with the help of Attorney C who shares space with the firm and sometimes does contract work. One year later Attorney B joins a different firm and continues to work on the investment offering. Two years later Investors 1 and 2 bring claims relating to the investment offering. Six months later Investor 3 brings a claim. Claims against all attorneys, by all three investors, are Related within the meaning of Section V A. None of the exceptions in Section V B apply.

Example 3: Client wants to obtain investors for an investment fund. Attorney A writes a tax opinion for an investment offering. One year later, Attorneys B and C, with a different law firm, assemble the offering circular for the investment. Three years later Investors 1 and 2 bring claims relating to the offering. Six months later Investor 3 brings a claim. Claims against all attorneys and firms, by all three investors, are Related. The claims against Attorneys A, B and C do not fall within the exception to Related Claims because even though the attorneys were at different firms and worked on different aspects of the offering, the same clients engaged all three of them to accomplish the same ultimate objective – making an investment offering.

Example 4: Attorney A represents Client in filing for divorce. Client fires Attorney A for failing to file a lis pendens on a residence. Client retains Attorney B to continue litigating the divorce but Attorney B fails to obtain adequate discovery. Attorney B brings in Attorney C to handle the QDRO. Attorney C also makes a mistake. The court in the divorce case makes an appealable error and Client retains Attorney D to file an appeal. Attorney D fails to file the notice of appeal on time. Client sues Attorneys A, B, C and D. All four attorneys were retained to accomplish the same objective – completing the divorce of the client. Therefore, the Claims against all four attorneys are Related and subject to a single limit.

Example 5: An owner sells his company to its employees by selling shares to two employee benefit plans set up for that purpose. The plans and/or their members sue the company, its outside corporate counsel, its ERISA attorney, the owner and his attorney, and the plans’ former attorney, contending there were improprieties in due diligence, the form of the agreements, and the amount and value of shares issued. The defendants file cross-claims. All Claims against the four attorneys are Related because they arise out of the same transactions or occurrences. Because all attorneys were working on the same objective for the client – the sale of the company to employees, the exception to Related Claims does not apply.

Example 6: Attorney A represents a client who is seeking funds from investors to launch a real estate holding business and assists the client in providing information to prospective investors regarding the initial funding. Client then seeks additional investors for Fund #2, and Attorney A provides some assistance with this offering as well. Client becomes unhappy with Attorney A’s advice, fires Attorney A and retains Attorney B. Attorney B continues the work on Fund #2 and assists the client in setting up Fund #3. Investors in Funds #1, #2 and #3
sue the client and both attorneys for securities violations alleging they provided misleading information. Even though Attorney A and Attorney B worked independently and on different Funds, both because Attorney B was a successor attorney and because they were engaged to carry out the same objective or set of objectives for the client the claims are Related. Even if Attorney B had not worked on Fund #2, the claims would still be Related.

Example 7: Attorneys A, B, and C in the same firm represent a large number of asbestos clients over several years’ time, using a firm-wide formula for evaluating large numbers of cases with minimum effort. They are sued by certain clients for improper evaluation. Plaintiffs do not allege a common scheme or plan, but because the firm in fact operated a firm-wide formula for handling the cases, these Claims are Related based on the Covered Parties’ own pattern or practice.

Examples of Claims that ARE NOT Related:

Example 8: Attorneys A and B represent husband and wife, respectively, in a divorce. Husband sues A for malpractice in litigating his prenuptial agreement. Wife sues B for not getting her proper custody rights over the children. Although these claims arise out of the same set of circumstances, they are not Related because they are within Exception B 1. The two attorneys acted independently of each other, they represented clients whose interests were adverse, and the claimants rely on different theories of liability.

Example 9: Client retains Attorney A to create a corporate entity and related documents. The corporate documents are ambiguous as to whether a departing shareholder is to be paid book value or fair market value. Years later, the corporation decides to force out one of the shareholders for alleged misconduct. The shareholder sues the corporation. Corporation retains Attorney B, in a different firm, to represent it in the litigation with the shareholder. Attorney B fails to respond to a Request for Admissions and they are deemed admitted. One of the requests asked for an admission that the agreement requires payment of the higher market value. Although these claims are logically connected, they fall within Exception B 2. Attorney A and Attorney B had different and unrelated objectives. Attorney A formed the corporate entity and created the necessary documents. Attorney B defended the shareholder suit. If Attorney A and Attorney B had been in the same firm, these claims would be Related because such claims against Associated Attorneys are not within the exception to Related Claims.

Example 10: Attorney A provides advice to Acme regarding a complex settlement of a lawsuit but negligently fails to obtain the release of an important party. That party sues Acme. Acme makes a malpractice claim against Attorney A and retains Attorney B to file suit against Attorney A. Attorney B files the malpractice suit too late and the suit is time barred. Acme sues Attorney B for malpractice. Although these claims share a common bond or nexus, they are not Related because the legal services provided by the two attorneys were not aimed toward the same objective. Attorney A was attempting to accomplish the complete settlement of the suit against Acme. Attorney B had a different objective – attempting to recover from Attorney A for malpractice. (Note, however, that if Acme retains Attorney C to prosecute the malpractice claim against Attorney B and Attorney C also makes an error in pursuing the malpractice claim, the claims against Attorney B and Attorney C are Related because both Attorneys B and C were pursuing the same objective – recovery for malpractice.)

Example 11: Attorney A, of Firm X, drafted a lease option agreement for Acme. The agreement is unclear regarding the date Acme had to give notice to exercise an option to renew the lease with Landowner. Arguably, because of the lack of clarity in the agreement, Acme did not exercise the option on time. Attorney B, with Firm Y, represents Acme in suing to enforce the option to renew, but is negligent in responding to a summary judgment motion by Landlord. Acme sues Attorney A for failing to make the contract unambiguous. Acme also sues Attorney B for negligence in responding to the motion for summary judgment. Although these two claims share a common bond, in that they both caused or contributed to the harm, they are not Related because the attorneys are not Associated and they were not engaged to accomplish a common objective. The purpose of retaining Attorney A was to create an option agreement. The purpose of retaining Attorney B was to pursue litigation to enforce an ambiguous provision in the agreement.

Example 12: Attorney A sets up an LLC for a client to do business in an area in which there is fierce competition to hire skilled employees. Attorney A also assists the LLC in preparing an employment manual. The manual
contains provisions stating the LLC must follow specific procedures before it may terminate employment. Employee A is accused of unlawfully discriminating against Employee B and threatening him with bodily harm. The LLC immediately terminates Employee A without following any of the procedures set forth in the manual. Employee A sues the LLC for wrongful termination, claiming he is innocent and that the LLC failed to follow the procedures in the manual. Attorney B, in a different law firm, represents the LLC in the employment action but fails to conduct an adequate investigation. Employee A prevails in his suit. The LLC makes a claim against Attorney A for negligently failing to allow for exceptions to the termination provisions and Attorney B for negligently defending the wrongful termination suit. Although these claims share a common bond, in that both alleged errors caused or contributed to the harm, they are not Related because the two attorneys were not retained to provide legal services aimed at the same objective. If Attorney A and Attorney B had been in the same firm at the time of their errors, these claims would be Related.

Example 13: Attorney A prepares a prenuptial agreement for Client. Attorney A meets with both Client and his future wife to execute the agreement. Client’s wife recently came from a non-English speaking country. Client marries and, two years later, files for divorce. Husband retains Attorney B, in a different firm, to represent him in the divorce. Wife tries to avoid the prenuptial agreement by claiming she thought Attorney A also represented her and that she did not speak English very well at the time she signed the agreement. Client tells Attorney B that very shortly after the wedding Wife told a friend, who is now very ill, that she understood the agreement and regretted having signed it. Friend dies before Attorney B perpetuates her testimony. Wife successfully avoids the prenuptial agreement. Client sues Attorney A for failing to advise him to take steps to be able to prove that Wife understood the agreement. Client also sues Attorney B for failing to preserve the testimony of deceased friend. Although both errors caused or contributed to the harm, the claims are not Related because the two attorneys were retained to accomplish different objectives. If Attorney A and Attorney B had been in the same firm, these claims would be Related.

SECTION VI – WHAT IS EXCLUDED FROM COVERAGE?

1. **Fraudulent Claims.** This Plan does not apply to any Claim in which any Covered Party, or in which anyone for whose conduct a Covered Party is legally liable, has participated in any fraud or collusion with respect to the Claim.

2. **Wrongful Conduct.** This Plan does not apply to any Claim based on or arising out of:
   a. any criminal act or conduct;
   b. any knowingly wrongful, dishonest, fraudulent, or malicious act or conduct;
   c. any intentional tort; or
   d. any knowing or intentional violation of the Oregon Rules of Professional Conduct (ORPC) or other applicable code of ethics.

Exclusion 2 applies even if the Covered Party did not intend to cause harm or damages.

This Exclusion 2 does not apply to You if You: did not commit or participate in any acts or conduct set forth in subsections (a) through (d); had no knowledge of any such acts or conduct at the time they occurred; and did not acquiesce or remain passive after becoming aware of such acts or conduct.

Exclusion 2 does not apply to any Law Entity covered under this Plan unless a member of the Control Group of the Law Entity:

(1) committed or participated in any acts or conduct set forth in subsections (a) through (d); or

(2) had knowledge of any such acts and acquiesced in them or failed to take, or attempt to take, corrective action.
Control Group includes all persons who are managers or officers of the Law Entity, and/or all persons with authority to act, make decisions or enter into agreements on behalf of the Law Entity.

3. Disciplinary Proceedings. This Plan does not apply to any investigation or disciplinary proceeding by the Oregon State Bar or any similar entity.

4. Punitive Damages, Sanctions, or Certain Fee Awards. This Plan does not apply to:
   a. The part of any Claim seeking punitive, exemplary, or statutorily enhanced damages against any Covered Party, or against anyone for whose conduct a Covered Party is legally liable;
   b. Any Claim for or arising out of the imposition of attorney fees, costs, fines, penalties, or remedies imposed as sanctions under any federal or state statute, administrative rule, court rule, or case law. However, with respect to any sanction awarded only against the client, this subsection (b) does not apply if: the Covered Party establishes that the sanction was caused by mere negligence on the part of the Covered Party and on the part of anyone for whose conduct a Covered Party is legally liable; and the sanction was not based, in whole or in part, on a finding of bad faith, malicious conduct, dishonest conduct, or misrepresentation on the part of the Covered Party, or on the part of anyone for whose conduct a Covered Party is legally liable; or
   c. Any attorney fees or costs owed as a result of any statute making any attorney liable or responsible for fees or costs owed by a client.

5. Failure to Pay Lien. This Plan does not apply to any Claim based on or arising out of the nonpayment of a valid and enforceable lien if actual notice of such lien was provided to any Covered Party or to anyone for whose conduct a Covered Party is legally liable, prior to the payment of the funds to a client or any person or entity other than the rightful lienholder.

6. Business Interests. This Plan does not apply to any Claim by a business enterprise:
   a. In which You have an Ownership Interest, or in which You are a general partner, managing member, or employee; or in which You control, operate or manage, either individually or a fiduciary capacity, any property that is owned, managed or maintained by the business enterprise; or
   b. At the time of the alleged acts, errors or omissions on which the Claim is based: You had an Ownership Interest in the business enterprise; You were a general partner, managing member, or employee of the business enterprise; or You controlled, operated or managed, either individually or a fiduciary capacity, any property that was owned, managed or maintained by the business enterprise.

    Ownership Interest means You and those controlled by You, Your spouse, parent, stepparent, child, stepchild, sibling, any member of Your household, or those with whom You are regularly engaged in the practice of law collectively own more than 10% of the business enterprise or owned more than 10% of the business enterprise at the time of the alleged acts, errors or omissions on which the Claim is based.

7. Partner and Employee Exclusion. This Plan does not apply to any Claim made by:
   a. A present, former, or prospective law partner, employer, or employee of a Covered Party, or of anyone for whose conduct a Covered Party is legally liable; or
   b. A present, former, or prospective officer, director, or employee of a professional corporation in which a Covered Party, or in which any attorney for whose conduct a Covered Party is legally liable, is or was a shareholder.

This Exclusion 7 does not apply if the Claim arises solely out of conduct in an attorney-client capacity for a person or entity listed in subsections (a) and (b).
8. **Business Transaction with Client.** This Plan does not apply to any **Claim** based on or arising out of any business transaction in which any **Covered Party**, or in which anyone for whose conduct a **Covered Party** is legally liable, participated with a client unless any written disclosure required by ORPC 1.8(a), or its equivalent, was properly executed prior to the transaction.

9. **Investment Advice.** This Plan does not apply to any of the following **Claims** or excluded activities, whether or not they are the sole cause, or a contributing cause, of any resulting loss or damage:
   
a. Any **Claim** for investment losses, or for any damages arising from or relating to such losses, as a result of any **Covered Party**, or any person for whose conduct any **Covered Party** is legally liable: advising any person or entity respecting the value of a particular investment; recommending investing in, purchasing, or selling a particular investment; providing any economic analysis of any investment; inducing any person or entity to make any particular investment; making any warranty or guarantee regarding any investment; or making a financial decision or investment choice on behalf of any other person or entity regarding the purchase or selection of any particular investment.

   This subsection (a) does not apply, however, to **Claims** made by a purchaser of securities for losses that arise only from **Professional Legal Services** provided to a seller of securities, provided no **Covered Party**, nor any attorney for whose conduct a **Covered Party** is legally liable, provided any advice or services, or made any representations, falling within this exclusion, directly to such purchaser.

   b. Any **Claim** arising from any **Covered Party**, or any person for whose conduct any **Covered Party** is legally liable: advising or failing to advise any person in connection with the borrowing of any funds or property by any **Covered Party** for the **Covered Party** or for another; acting as a broker for a borrower or a lender; or giving advice of any nature when the compensation for such advice is, in whole or in part, contingent or dependent on the success or failure of a particular investment.

   c. Managing an investment, or buying or selling an investment for another, except to the limited extent such activities fall within the common and ordinary scope of **Special Capacity Services**.

10. **Law Practice Business Activities or Benefits Exclusion.** This Plan does not apply to any **Claim**:
   
   Arising from or relating to the negotiation, securing, or collection of fees, costs, or disbursements owed or claimed to be owed to any **Covered Party**, or any **Law Entity** with which any **Covered Party** is now associated, or was associated at the time of the conduct giving rise to the **Claim**.

   The following illustrative examples, not intended to be exhaustive, are provided for the purpose of assisting a **Covered Party** or court in interpreting the PLF’s intent as to the scope of Exclusion 10:

   **Example 1:** Attorney A writes a demand letter to Client for unpaid fees and then files a lawsuit for collection of the fees. Client counterclaims for unlawful debt collection. Under Exclusion 10, there is no coverage for the claim. The same is true if Client is the plaintiff and sues for unlawful debt collection in response to the demand letter from Attorney A.

   **Example 2:** Attorney B is owed fees for work performed for a client and files a lien against property in order to secure payment of the fees. The property owner sues Attorney B, claiming the lien is improperly asserted. The claim against Attorney B is not covered.

   **IMPORTANT NOTE:** THIS EXCLUSION WAS AMENDED AS OF 1/1/19, BUT THIS IS NOT AN EXPANSION OF PREVIOUS COVERAGE. PLEASE SEE THE AMENDED DEFINITION OF “DAMAGES” REGARDING CLAIMS INVOLVING ATTORNEY FEES, COSTS, EXPENSES, OR DISBURSEMENTS.

11. **Family Member and Ownership Exclusion.** This Plan does not apply to any **Claim** based on or arising from any **Covered Party**, or anyone for whose conduct a **Covered Party** is legally liable, having provided or failed to provide:
a. **Professional Legal Services** to any person or entity that is his or her own **Family Member** or **Family Business** at the time any such services are provided or fail to be provided; or

b. **Special Capacity Services** to a trust or estate: (i) if the **Covered Party**, or person for whose conduct a **Covered Party** is legally liable, is a beneficiary of the trust or estate; or (ii) if at the time any such **Special Capacity Services** are provided, or fail to be provided, any **Family Member** or **Family Business** of that **Covered Party**, or of the person for whose conduct a **Covered Party** is legally liable, is a beneficiary of the trust or estate.

**Family Member(s)** means spouse, parent, adoptive parent, parent-in-law, stepparent, grandparent, child, adopted child, stepchild, grandchild, son-in-law, daughter-in-law, sibling, adopted sibling, stepsibling, half sibling, brother-in-law, sister-in-law, or any member of the **Covered Party's** household and, if the household member is a spousal equivalent of the **Covered Party**, the **Family Members** of any such person.

**Family Business** means a business entity in which the **Covered Party**, or person for whose conduct a **Covered Party** is legally liable, and/or the **Family Members** of such **Covered Party**, or person for whose conduct a **Covered Party** is legally liable, collectively or individually, have a controlling interest.

This Exclusion 11 does not apply to **Professional Legal Services** or **Special Capacity Services** an attorney provides to another attorney's **Family Member** or **Family Business**.

12. **Benefit Plan Fiduciary Exclusion.** This Plan does not apply to any **Claim** arising out of any **Covered Party**, or anyone for whose conduct a **Covered Party** is legally liable, having acted as a fiduciary under any employee retirement, deferred benefit, or other similar plan.

13. **Notary Exclusion.** This Plan does not apply to any **Claim** arising out of any witnessing of a signature or any acknowledgment, verification upon oath or affirmation, or other notarial act without the physical appearance before such witness or notary public.

14. **Loss of Funds or Property/Certain Disbursements.** This Plan does not apply to any **Claim** against any **Covered Party**, or against anyone for whose conduct a **Covered Party** is legally liable, relating to or arising from: conversion of any funds or property; misappropriation of any funds or property; improper commingling; negligent supervision of client funds or trust account property, including loss or reduction in the value of such funds or property; or the disbursement of funds, checks or other similar instruments deposited to a trust, escrow, or other similar account in which the deposit was not irrevocably credited to such account.

15. **General Tortious Conduct.** This Plan does not apply to any **Claim** for:

   a. Bodily injury, sickness, disease, mental anguish, emotional distress, or death of any person, except to the limited extent any such harm or injury is directly caused by an error, omission, negligent act, or breach of duty in providing or failing to provide **Professional Legal Services** or **Special Capacity Services**; or

   b. Injury to, loss of, loss of use of, or destruction of any real, personal, tangible, or intangible property of any kind, except to the limited extent the loss or destruction of any such property materially and adversely affects the provision of **Professional Legal Services** or **Special Capacity Services**.

The following illustrative examples, not intended to be exhaustive, are provided for the purpose of assisting a **Covered Party** or court in interpreting the PLF’s intent as to the scope of Exclusion 15:

**Example 1:** Client gives Attorney C important documents relevant to a legal matter being handled by Attorney C. Following the completion of the matter, the documents are lost or destroyed. Client makes a claim for loss of the documents, reconstruction costs, and consequential damages due to future inability to use the documents. There is no coverage for this claim because the loss of documents did not adversely affect the professional services, which had already been completed.

**Example 2:** Client gives Attorney B a defective ladder from which Client fell, to be used as critical evidence in his personal injury case. Attorney B loses the ladder and cannot use it as evidence, causing a defense verdict. A claim for the value of the lost personal injury case would not be excluded.
Example 3: A client makes a claim for bodily injury or emotional distress based on allegations that an attorney engaged in sexual contact with the client, the client suffered injury while riding in an attorney’s car, or that the client slipped on the floor in an attorney’s office. As an initial matter, none of these claims arise out of a Covered Activity. They are also excluded by Exclusion 15 a, and may also be subject to other exclusions.

Example 4: An attorney negligently fails to inform a client of a court date in a criminal matter. As a result, the client fails to appear and is arrested, jailed, and injured by another inmate. A claim against the attorney alleging damages arising from bodily injury and emotional distress is not excluded by Exclusion 15 a.

16. Harassment and Discrimination. This Plan does not apply to any Claim based on or arising out of harassment or discrimination by any Covered Party on the basis of race, creed, age, religion, sex, sexual orientation, sexual identity, disability, pregnancy, national origin, marital status, or any basis protected by law.

17. Patent Exclusion. This Plan does not apply to any Claim based upon or arising out of any Covered Party, or anyone for whose conduct a Covered Party is legally liable, having prosecuted a patent without being registered with the U.S. Patent and Trademark Office at the time any such services were provided.

18. Contractual Obligation Exclusion. This Plan does not apply to any Claim:
   
   a. Based on or arising out of any bond or any surety, guaranty, warranty, joint control, or similar agreement, or any assumed obligation to indemnify another, whether signed or otherwise agreed to by a Covered Party or by someone for whose conduct any Covered Party is legally liable, unless the Claim arises out of Special Capacity Services, and the Covered Party, or person for whose conduct a Covered Party is legally liable, signed the bond or agreement solely in a representative capacity arising from the Special Capacity Relationship;
   
   b. For liability based on an agreement or representation, if the Covered Party would not have been liable in the absence of the agreement or representation; or
   
   c. To the extent the Claim is based on an actual or alleged promise to obtain a certain outcome or result if the Covered Party would not have been liable in the absence of such a promise.

The following illustrative examples, not intended to be exhaustive, are provided to assist a Covered Party or court in interpreting the PLF’s intent as to the scope of Exclusion 18:

Example 1: Attorney A personally guarantees that a client will secure funding for a real estate development. Any claim against Attorney A arising from the guarantee is not covered.

Example 2: Attorney B enters into an agreement with a client that if there is any dispute arising from the representation, the prevailing party will be able to recover attorney fees. The client sues Attorney C for malpractice and prevails. The contractually based attorney fee award is not covered because it would not exist in the absence of the agreement.

Example 3: Attorney C promises a plaintiff that he will recover at least $200,000 in a lawsuit but does not achieve this result. To the extent the client bases any claim against Attorney D solely on a promise to obtain a particular outcome, rather than on negligence in failing to meet the applicable standard of care, there is no coverage for the breach of contract claim.

19. Bankruptcy Trustee Exclusion. This Plan does not apply to any Claim arising out of activity as a bankruptcy trustee.

20. Confidential or Private Information/Computer Systems. This Plan does not apply to any Claim arising from:

   a. Any loss of Personally Identifiable Non-Public Information or Third Party Corporate Information, or any access or potential access by third parties, disclosure to third parties, or publication of Personally Identifiable Non-Public Information or Third Party Corporate Information, whether or not such information was in electronic form or in paper form;

   b. Any violation of a federal, state or foreign statute or regulation requiring the protection and/or security of information referenced in subsection (a), including but not limited to failure to report the loss of such information; or
c. Any loss of, loss of use of, damage to, corruption of, inability to access, inability to manipulate, compromise of, or breach of any electronically stored information or data; the receipt or transmission of malware or malicious code or other harm resulting from transmission by a computer system to the computer system of a third party; or actual or attempted extortion by anyone who has gained or claims to have gained access to or control of any electronic devices, electronic data systems, electronically stored data, or access to or control of any confidential or private information or data, whether or not it is stored electronically.

**Personally Identifiable Non-Public Information** means any personal information that is not public and that may not be disclosed without proper authorization and/or notice pursuant to any federal, state, or foreign law or regulation, if such information allows an individual to be uniquely and reliably identified or contacted or allows access to the individual’s financial account or medical record information. This includes, but is not limited to, certain medical or health care information, driver’s license or state identification information, Social Security numbers, credit information, or financial account information.

**Third Party Corporate Information** means any trade secret, data, design, interpretation, forecast, formula, method, practice, credit or debit card magnetic strip information, process, record, report, or other item of information of a third party that is not available to the general public.

This Exclusion 20, however, does not apply to a **Claim** to the limited extent it arises solely out of immediate inability to provide **Professional Legal Services** or **Special Capacity Services** caused by the sudden and unexpected loss of documents or information necessary to such services provided: (i) such loss materially and adversely affected the ability to provide such services; and (ii) following the discovery of any such loss of documents or information, the **Covered Party**, at the **Covered Party’s** own expense, took any and all reasonable and necessary steps as were possible to restore, recover, replace, or obtain such documents or information before the time the services had to be provided.

If the PLF agrees to defend a **Suit** that includes a **Claim** falling within this exclusion, and/or a **Claim** falling within the exception set forth in the preceding paragraph, the PLF will not pay any costs such as those relating to privacy notification, credit monitoring, forensic investigation, computer reprogramming, computer security experts, computer services of any kind, call center support costs, public relations costs, or any similar costs.

21. **Escrow/Holding Exclusion.** This Plan does not apply to any **Claim** arising from a **Covered Party** entering into an express or implied agreement with two or more parties to a transaction that in order to facilitate the transaction, the **Covered Party** will hold documents, money, instruments, titles, or property of any kind until certain terms and conditions are satisfied, or a specified event occurs. This exclusion does not apply to a **Claim** based on: (a) a **Covered Party’s** distribution of settlement funds received from the **Covered Party’s** client, or from an opposing party, in order to close a settlement; or (b) a **Covered Party’s** distribution of funds pursuant to and consistent with a limited or general judgment in a domestic relations proceeding.

The following illustrative examples, not intended to be exhaustive, are provided for the purpose of assisting a **Covered Party** or court in interpreting the PLF’s intent as to the scope of Exclusion 21:

**Example 1:** Lawyer is hired to act as a neutral third party to hold money in a transaction between non-clients. The parties do not provide written instructions, but agree that the lawyer should determine when it is appropriate to release the money and deliver it to one of the parties. **Claims** arising from this engagement are excluded. Even if the parties agreed upon and provided the lawyer with written instructions regarding when the money should be delivered, the claims are excluded.

**Example 2:** Lawyer represents one party to a transaction with another party and, pursuant to instructions from both parties, holds money or other property to disburse in accordance with those instructions. **Claims** arising from this engagement, including the wrongful disbursement or withholding of money or property, are excluded.

**Example 3:** Lawyer represents one party in a dispute and, upon settlement of the dispute, receives settlement proceeds from the adverse party’s lawyer with instructions not to distribute the funds until various contingencies have occurred. Because of an innocent mistake, Lawyer incorrectly believes all contingencies are satisfied and distributes the settlement funds prematurely. **Exclusion 21** does not apply to a claim based on this distribution. (But note that **Exclusions 2 and 14** would apply to knowingly wrongful distributions or conversion of settlement funds.)
Example 4: Lawyer represents the trustee of a trust and is holding money to be distributed to the trust beneficiaries pending the payment of debts owed by the trust. After payment of the debts, and distribution to the beneficiaries, one of the beneficiaries claims the lawyer negligently paid a debt that was not owed. This Claim is not excluded by Exclusion 21 because the lawyer has not “entered into an express or implied agreement with two or more parties to a transaction” within the intended meaning of Exclusion 21.

SECTION VII – LIMIT OF COVERAGE, CLAIMS EXPENSE ALLOWANCE, AND SPECIAL LIMITS REGARDING RELATED CLAIMS

A. Limit of Coverage

The Limit of Coverage for the Coverage Period of this Plan is $300,000. This is a maximum aggregate limit applicable to any and all Claims or matters to which this Plan applies. The making of multiple claims or claims against more than one Covered Party will not increase the Limit of Coverage, which is reduced by the following payments arising from Claims or matters to which the Coverage Period of this Plan applies:

1. All Claims Expense paid by the PLF on behalf of any Covered Party under this Plan that is in excess of any applicable Claims Expense Allowance; and

2. The PLF's payment, on behalf of any Covered Party under this Plan, of any and all amounts relating to settlements, judgments, or any other indemnity payments arising from any and all Claims, or matters that may have the potential to create or result in Claims, against any Covered Party under this Plan.

B. Claims Expense Allowance

In addition to the Limit of Coverage, this Plan also provides a separate Claims Expense Allowance, meaning an additional allowance in the maximum aggregate amount of $50,000, applicable to the investigation and/or defense of any and all Claims against all Covered Parties under this Plan, subject to Section VII C below. The Claims Expense Allowance may be applied only to Claims Expenses, and not to any settlements, judgments, or any other indemnity payments.

C. Special Rules and Limits for Related Claims

If Your Plan and one or more other Plans issued by the PLF to other attorneys apply to Claims that are Related, then regardless of the number of claims, claimants, clients, attorneys, or Law Entities involved, the PLF will not pay more than a maximum total of $300,000, plus a maximum of one $50,000 Claims Expense Allowance to defend and/or indemnify all parties covered under this or any other PLF Plan regarding all such Related Claims. This is subject only to the exception stated below regarding Claims Expense Allowances. In addition, the portion of this total maximum Related Claim limit available to You cannot exceed the amount of the available remaining limit of Your Plan in effect during the Coverage Period that applies to the Related Claim(s) against You.

The total maximum limit applicable to Related Claims is reduced as the PLF makes expenditures on Related Claims, whether on Your behalf, or on behalf of other attorneys or Law Entities against whom Related Claims are made. After the total applicable limit for Related Claims and any Claims Expense Allowance available to You has been exhausted, the PLF is not obligated to investigate, defend, pay, or settle any Related Claim against You.

Under the following circumstances, the PLF may grant more than one Claims Expense Allowance with respect to Related Claims: (1) the Related Claims allegedly arise from Covered Activities by two or more Law Entities; (2) the Law Entities were separate entities at the time of the alleged errors, omissions, negligent acts, or breaches of
duty; and (3) a Covered Party requests and, in the sole judgment of the PLF, should be entitled to separate defense counsel. Not more than one separate Claims Expense Allowance per Law Entity, or group of Law Entities practicing together as a single firm, will be granted. Any such separate allowance may be used only for the defense of Claims arising from the Covered Activities of the Law Entity or group of Entities to which the separate allowance applies. If the Claims Expense Allowance for the applicable Coverage Period has already been depleted or exhausted by other Claims or matters, the amount of the Claims Expense Allowance will be limited to whatever remains of the Claims Expense Allowance for that Coverage Period.

For the purpose of assisting a Covered Party or court in interpreting the PLF’s intent as to the meaning of Section VII C, illustrative examples, not intended to be exhaustive, are as follows:

Example 1: In 2009, Attorney A, with Firm 1, assists a client in setting up an LLC to obtain investors for real estate development projects, also advising the client as to applicable securities laws requirements. In 2011, Attorneys B and C, with Firm 2, assemble information the LLC provides to investors. In 2016, Investor W brings securities claims against Attorneys B and C. The Applicable Plan Year for the Related Claims against Attorneys B and C is 2016. The PLF incurs $50,000 in Claims Expense relating to Investor W’s Claims against Attorneys B and C and settles the Claims against them for a total of $250,000 – $125,000 for Attorney B and $125,000 for Attorney C.

In January of 2018, following the settlement of Investor W’s Claims against Attorneys B and C, Investor X brings a securities claim against Attorneys A, B, and C regarding Investor X’s investment in the same LLC. The Claims by Investor X are Related to the previous Claims against Attorneys B and C. Because Attorneys B and C are Associated Attorneys, this Claim relates back to the 2016 Plans issued to Attorneys B and C. Therefore, the applicable Plan Year for the claim by Investor X, as it relates to Attorneys B and C, is 2016. However, because Attorney A acted independently of Attorneys B and C, and is not an Associated Attorney, the applicable Plan Year for the Claim against Attorney A is 2018, the year Investor W first alleged a Claim against Attorney A.

There was another completely unrelated Claim against Attorney A in 2018, but the PLF successfully defended Attorney A, using his entire $50,000 Claims Expense Allowance for 2018. Although Attorney A has not used his $300,000 limit for 2018, because the PLF has already spent $250,000 settling Related Claims against Attorneys B and C, all the attorneys collectively now have a total limit of $50,000 to respond to the Claim by Investor X. Because Attorney A has already used his Claims Expense Allowance for 2018, he does not have another Claims Expense Allowance for this Claim. There is no additional Claims Expense Allowance available for Attorneys B and C, because they are entitled to only one shared Claims Expense Allowance regarding the Related Claims, and this was already spent on the Related Claim by Investor W.

Example 2: Same facts as in Example 1, except that the previous unrelated 2018 Claim against Attorney A was not successfully defended. The PLF spent Attorney A’s $50,000 Claims Expense Allowance, plus $275,000 settling the unrelated 2018 Claim against Attorney A. Under this scenario, there is a total maximum limit of $25,000 for Attorney A to respond to the Claim by Investor X. Although the $50,000 left after settling the Claim by Investor W is available collectively to A, B, and C, no more than $25,000 of this amount can be used for Attorney A because that is all that is remaining of his 2018 limit. Assuming $25,000 is spent to settle the Investor X Claim against Attorney A, there is $25,000 remaining to defend or indemnify Attorneys B and C against Investor X.

Example 3: Same facts as in Example 1, except that $200,000 is spent settling Investor W’s claim against Attorneys B and C. Attorneys B and C have exhausted their 2016 Claims Expense Allowance applicable to this Related Claim. Attorney A has already spent $10,000 of his 2018 Claims Expense Allowance to defend an unrelated Claim, but he has not spent anything on indemnity in 2018. Attorney A has $40,000 of his 2018 Claims Expense Allowance to defend against the Investor X claim. Attorneys B and C have exhausted their applicable Claims Expense Allowance. Collectively, all three attorneys have $100,000 for defense and/or indemnity relating to the claim by Investor W.

Example 4: Same facts as Example 1, except the PLF settles Investor W’s Claim against Attorneys B and C for $30,000, without incurring any Claims Expense for them. Attorney A has used all but $5,000 of his 2018 limit, as well as his Claims Expense Allowance, for an earlier unrelated Claim. Under this scenario, there is a maximum total limit of $270,000 to respond to the Claim by Investor X against all three attorneys, but only $5,000 of this amount is available to Attorney A because that is the limit remaining under his 2018 Plan. Attorney A has no Claims Expense...
Allowance remaining. Attorneys B and C, however, have a shared $50,000 Claims Expense Allowance for their defense against the claim by Investor X.

Example 5: Some facts as Example 1, except Attorney A already spent both his entire 2018 Claims Expense Allowance, plus his entire 2018 limit on an unrelated Claim. Attorney A has no coverage for the Claim by Investor X under the PLF Primary Coverage Plan.

Example 6: Attorney A performed Covered Activities for a client while Attorney A was at two different law firms. Client sues A and both firms. Both firms request separate counsel, each one contending most of the alleged errors took place while A was at the other firm. The defendants are collectively entitled to a maximum of one $300,000 Limit of Coverage and two Claims Expense Allowances. For purposes of this provision, Attorney A (or, if applicable, her professional corporation) is not a separate Law Entity from the firm at which she worked. Accordingly, two, not three, Claims Expense Allowances are potentially available.

Example 7: Attorney A is a sole practitioner, practicing as an LLC, but also working of counsel for a partnership of B and C. While working of counsel, A undertook a case that he concluded involved special issues requiring the expertise of Attorney D from another firm. D and C work together in representing the client and commit errors in handling the case. Two Claims Expense Allowances are potentially available. There are only two separate firms – the BC partnership and D’s firm.

SECTION VIII – DUTIES OF COVERED PARTIES

A. Notice of Claims, Suits, and Circumstances

1. The Covered Party must immediately notify the PLF of any Suit filed against the Covered Party and deliver to the PLF every demand, notice, summons, or other process received.

2. If the Covered Party receives notice of a Claim, or becomes aware of facts or circumstances that reasonably could be expected to be the basis of a Claim for which coverage may be provided under this Plan, the Covered Party must give written notice to the PLF as soon as practicable of: the specific act, error, or omission; any damages or other injury that has resulted or may result; and the circumstances by which the Covered Party first became aware of such act, error, or omission.

3. If the PLF opens a suspense or claim file involving a Claim or potential Claim that otherwise would require notice from the Covered Party under subsection 1 or 2 above, the Covered Party’s obligations under those subsections will be considered satisfied for that Claim or potential Claim.

B. Assistance and Cooperation in Defense

As a condition of coverage under this Plan, the Covered Party will, without charge to the PLF, cooperate with the PLF and will:

1. Provide to the PLF, within 30 days after written request, narrative statements or sworn statements providing full disclosure concerning any Claim or any aspect thereof;

2. Attend and testify when requested by the PLF;

3. Furnish to the PLF, within 30 days after written request, all files, records, papers, and documents that may relate to any Claim against the Covered Party;

4. Execute authorizations, documents, papers, loan receipts, releases, or waivers when requested by the PLF;

5. Submit to arbitration of any Claim when requested by the PLF;

6. Permit the PLF to cooperate and coordinate with any excess or umbrella insurance carrier as to the investigation, defense, and settlement of all Claims;
7. Not communicate with any person, other than the PLF or an insurer for the Covered Party, regarding any Claim that has been made against the Covered Party, after notice to the Covered Party of such Claim, without the PLF’s written consent; and

8. Assist, cooperate, and communicate with the PLF in any other way necessary to investigate, defend, repair, settle, or otherwise resolve any Claim against the Covered Party.

C. No Voluntary Payments, Admissions, or Representations

No Covered Party can bind or prejudice the PLF with voluntary payments or admissions or representations. If a Covered Party, without the advance written consent of the PLF, voluntarily makes any payment, assumes any obligation or incurs any expense with respect to a Claim, makes any representation to a claimant that the claimant will be indemnified, or makes any representation as to the value or potential value of the Claim, any payment, obligation, expense, obligation to pay, or obligation to pay the represented amount will be the sole obligation of the Covered Parties, to be paid or satisfied at the sole cost and expense of the Covered Parties.

D. Protection of Subrogation Rights

To the extent the PLF makes any payment under this Plan, it will be subrogated to any Covered Party’s rights against third parties to recover all or part of these sums. No Covered Party will take any action to destroy, prejudice, or waive any right of subrogation the PLF may have, and will, if requested, assist the PLF in bringing any subrogation action or similar claim. The PLF’s subrogation or similar rights will not be asserted against any Non Attorney employee of a Covered Party who was acting in the course and scope of employment, except for claims arising from intentional, dishonest, fraudulent, or malicious conduct of such person.

E. Assistance and Cooperation in Coverage Issues

1. Any party claiming coverage under this Plan has a duty and obligation to timely provide, upon the request of the PLF, accurate, complete, and truthful information relevant to any claimed right to coverage under this Plan.

2. In the event the PLF proposes, in writing, a settlement to be funded by the PLF but subject to the Covered Party’s being obligated to reimburse the PLF if it is later determined that the Plan did not cover all or part of the Claim settled, the Covered Party must advise the PLF in writing that the Covered Party either agrees or objects to the PLF’s proposal. The written response must be made by the Covered Party as soon as practicable and, in any event, must be received by the PLF no later than one business day (and at least 24 hours) before the expiration of any time-limited demand for settlement. A failure to respond, or a response that fails to unequivocally object to the PLF’s written proposal, constitutes an agreement to the PLF’s proposal. The Covered Party’s objection to the settlement waives any right to assert that the PLF should have settled the Claim.

SECTION IX – ACTIONS BETWEEN THE PLF AND COVERED PARTIES OR OTHERS

1. No legal action in connection with this Plan may be brought against the PLF unless all Covered Parties have fully complied with all the terms and conditions of the Plan.

2. Absent the PLF’s express written consent, the PLF will not be obligated to make any indemnity payments until after the Covered Party has been held liable in a Suit on the merits, and all applicable coverage issues have been determined by Declaratory Judgment.

3. The bankruptcy or insolvency of a Covered Party does not relieve the PLF of its obligations under this Plan, nor deprive the PLF of any of its rights under this Plan.
4. In the event of exceptional circumstances in which the PLF, at the PLF’s option, has paid a portion or all of the Limit of Coverage toward settlement of a Claim before all applicable coverage issues have been finally determined, then resolution of the coverage dispute as set forth in this Section will occur as soon as reasonably practicable following the PLF’s payment. In the event it is determined that this Plan is not applicable to the Claim, or only partially applicable, then judgment will be entered in Multnomah County Circuit Court in the PLF’s favor and against the Covered Party (and all others on whose behalf the PLF’s payment was made) in the amount of any payment the PLF made on an uncovered portion of the Claim, plus interest at the rate applicable to judgments from the date of the PLF’s payment. Nothing in this Section creates an obligation by the PLF to pay a portion or all of the PLF’s Limit of Coverage before all applicable coverage issues have been fully determined.

5. This Plan is governed by the laws of Oregon, regardless of any conflict-of-law principle that would otherwise result in the laws of any other jurisdiction governing this Plan. Any disputes as to the applicability, interpretation, or enforceability of this Plan, or any other issue pertaining to or arising out of any duties or provision of benefits under this Plan, between any Covered Party (or anyone claiming through a Covered Party or based on any actual or alleged right of direct action) and the PLF, whether any claim against the PLF is based in tort or in contract, is subject to Oregon law and will be tried in the Multnomah County Circuit Court of the State of Oregon, which will have exclusive jurisdiction and venue of such disputes at the trial level.

6. No person or entity may recover consequential damages for the PLF’s breach of any provision in this Plan. Any damages recoverable for any such breach are strictly limited to those amounts a court rules would have been payable by the PLF, under the provisions of this Plan, if there had been no such breach.

7. The PLF has a right of subrogation and may bring a legal action to recover from a Covered Party under this Plan for damages it has paid regarding a Claim against another attorney or entity covered under this or another PLF Plan, subject to the following conditions:

   a. If not for the PLF’s right of subrogation, the Covered Party against whom recovery is sought could be responsible for contribution, indemnity, or otherwise to the person or entity on whose behalf the PLF’s payment was made; and

   b. The PLF’s right of subrogation can be alleged based on a theory or theories for which there would not be coverage under this Plan for the Covered Party against whom recovery is sought.

In the circumstances outlined in this subsection 7, the PLF reserves the right to sue the Covered Party, either in the PLF’s name or in the name of the person or entity on whose behalf the PLF has paid, to recover such amounts as the PLF determines appropriate, up to the full amount the PLF has paid under one or more other Plans issued by the PLF. However, this subsection will not entitle the PLF to sue the Covered Party if the PLF’s alleged rights against the Covered Party are premised on a theory of recovery that would entitle the Covered Party to indemnity under this Plan if the PLF’s action were successful.

The following examples, not intended to be exhaustive, illustrate the effect of Section IX 5:

Example 1: Attorney A engages in intentionally wrongful conduct in representing Client X. Attorney A’s partner, Attorney B, does not know of or acquiesce in Attorney A’s wrongful conduct. Client X sues both Attorneys A and B. Attorney A has no coverage for the Claim under his Plan, but Attorney B has coverage for her liability under her Plan. If the PLF pays the Claim under Attorney B’s Plan, it has a right to sue Attorney A for the damages it paid.

Example 2: Same facts as the prior example, except that the PLF lends funds to Attorney B under terms that obligate Attorney B to repay the loan to the extent she recovers damages from Attorney A in an action for indemnity. The PLF has the right, pursuant to such an arrangement with Attorney B, to participate in her action against Attorney A.
SECTION X – SUPPLEMENTAL ASSESSMENTS

This Coverage Plan is assessable. Each Plan Year is accounted for and assessable using reasonable accounting standards and methods of assessment. If the PLF determines that a supplemental assessment is necessary to pay for Claims, Claims Expense, or other expenses arising from or incurred during either this Plan Year or a previous Plan Year, You agree to pay Your supplemental assessment to the PLF within 30 days of request. The PLF is authorized to make additional assessments against You for this Plan Year until all the PLF’s liability for this Plan Year is terminated, whether or not You are a Covered Party under a Plan issued by the PLF at the time the assessment is imposed.

SECTION XI – RELATION OF PLF COVERAGE TO INSURANCE COVERAGE OR OTHER COVERAGE

If a Covered Party has valid and collectible insurance coverage or other source of indemnification that also applies to any loss or Claim covered by this Plan, the PLF will not be liable under the Plan until the limits of the Covered Party’s insurance or other source of indemnification, including any applicable deductible, have been exhausted, unless such insurance or other source of indemnification is written only as specific excess coverage over the Claims Expense Allowance and Limit of Coverage of this Plan.

SECTION XII – WAIVER AND ESTOPPEL

Notice to or knowledge of the PLF’s representative, agent, employee, or any other person will not effect a waiver, constitute an estoppel, or be the basis of any change in any part of this Plan, nor will the terms of this Plan be waived or changed except by written endorsement issued and signed by the PLF’s authorized representative.

SECTION XIII – AUTOMATIC EXTENDED REPORTING COVERAGE

1. If You terminate Your PLF coverage during this Plan Year, or do not obtain PLF coverage as of the first day of the next year following the expiration of this Plan Year, as of Your last day of PLF coverage, and until the date specified in subsection 2, You will automatically have extended reporting coverage under this Plan for future Claims made against You, provided such Claims are not based on activities that occurred after Your last day of PLF coverage. Your extended reporting coverage does not provide You with a renewed Limit of Coverage or Claims Expense Allowance. The remaining Limit of Coverage and Claims Expense Allowance available under this Plan, after subtracting all amounts spent by the PLF regarding any Claims or matters to which this Plan applied or applies, as of the date any such future Claim is made, will be the maximum amount available for the defense and indemnity of any such Claim.

2. If You terminate Your PLF coverage during this Plan Year and return to PLF coverage later in the same year, the extended reporting coverage granted to You under subsection 1 will automatically terminate as of the date You return to PLF coverage, the coverage provided under this Plan will be reactivated, and You will not receive a new Limit of Coverage or Claims Expense Allowance on Your return to coverage.

SECTION XIV – ASSIGNMENT

Any interest of any Covered Party under this Plan is not assignable. Any such assignment or attempted assignment without the express written consent of the PLF, voids any coverage under the Plan.
1. **Associated Attorney** means any attorney who, at the time of the representation, advice, or activity at issue, or during any portion of such representation, advice, or activity: (1) was a member, partner, associate, of counsel, or contract attorney, in the same **Law Entity** with **You**; or (2) worked in association with **You**, or as co-counsel with **You**, regarding the representation, advice, or activity that is the subject of the **Claim(s)**. (Section IV B7, p. 6)

2. **Claim** means a demand for **Damages**, or written notice to a **Covered Party** of an intent to hold a **Covered Party** liable as a result of a **Covered Activity**, if such notice might reasonably be expected to result in an assertion of a right to **Damages**. (Section I A, p. 1)

3. **Claims Expense** has the meaning set forth in Section I B 3. (p. 2)

4. **Claims Expense Allowance** means the separate allowance for aggregate **Claims Expense** for all **Claims** as provided for in Section VII B. (p. 16)

5. **Control Group** includes all persons who are managers or officers of the **Law Entity**, and/or all persons with authority to act, make decisions or enter into agreements on behalf of the **Law Entity**. (Section VI 2, p. 11)

6. **Coverage Period** means the coverage period shown in the Declarations under the heading, “Coverage Period.” (¶1, p. 1)

7. **Covered Activity** has the meaning set forth in Section III A. (p. 4)

8. **Covered Party** means any person or **Law Entity** qualifying as such under Section II. (p. 3)

9. **Damages** means monetary compensation a **Covered Party** must pay for harm or loss and does not include:
   a. Fines; penalties, statutorily enhanced damages, or enhanced prevailing fees;
   b. Punitive or exemplary damages;
   c. The return, forfeiture, disgorgement, restitution, reduction, or offset of any fees, costs, expenses or disbursements paid to, charged by, or owed to any **Covered Party** or to any **Law Entity** with which any **Covered Party** was associated at the time any such fees, costs, expenses or disbursements were paid, charged, or incurred, including but not limited to fees, costs, expenses or disbursements alleged to be excessive, not earned, unnecessary, ill-advised, or caused, in whole or in part, by any alleged negligent advice;
   d. Rescission, injunctions, accounting, restitution, equitable relief;
   e. Any personal profit or advantage to a **Covered Party**;
   f. Any award of attorney fees, costs, or interest arising from any claim referenced in (a) through (d) above, or from any excluded claim. (Section I A, p. 1)

10. **Family Business** has the meaning set forth in Exclusion 11. (p. 13)

11. **Family Member(s)** has the meaning set forth in Exclusion 11. (p. 13)

12. **Law Entity** means a professional corporation, partnership, limited liability partnership, limited liability company, or sole proprietorship that engages in the **Private Practice** of law in Oregon. (Section II B, p. 4)

13. **Legally Obligated** has the meaning set forth in Section I A. (p. 1)

14. **Limit of Coverage** has the meaning set forth under Section VII A. (p. 16)

15. **Non Attorney** employee includes employees who are not attorneys, as well as employees who have a law degree but are not engaged in the practice of law in Oregon or any other state. (Section III A, p. 4)

16. **Ownership Interest** means either **You**, those controlled by **You**, and **Your** spouse, parent, stepparent, child, stepchild, sibling, any member of **Your** household, or those with whom **You** are regularly engaged in the practice of law collectively own more than 10% of the business enterprise or owned more than 10% of the business enterprise at the time of the alleged acts, errors or omissions on which the **Claim** is based. (Section VI 6, p. 11)

17. **Personally Identifiable Non-Public Information** has the meaning set forth in Exclusion 20. (p. 15)

18. **Plan Year** means the period of January 1 through December 31 of the calendar year for which this Plan was issued. (¶1, p. 1)

19. **Private Practice** has the meaning set forth in Section II A. (p. 3)

20. **Principal Office** has the meaning set forth in Section II A. (p. 4)

21. **Professional Legal Services** has the meaning set forth under Section III B. (p. 4)

22. **Related Claims** has the meaning set forth in Section V. (p. 7)

23. **Special Capacity Relationship** has the meaning set forth in Section III C. (p. 5)

24. **Special Capacity Services** has the meaning set forth in Section III C. (p. 5)

25. **Suit** means a civil lawsuit. **Suit** also includes an arbitration or alternative dispute resolution proceeding only if the PLF expressly consents to it. (Section I B, p. 2)

26. **Third Party Corporate Information** has the meaning set forth in exclusion 20. (p. 15)

27. **You** and **Your** refer to the Named Party shown in the Declarations. (¶1, p. 1)
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INTRODUCTION

The Professional Liability Fund ("PLF") may provide limited coverage to Oregon State Bar Certified Pro Bono Programs to cover volunteer Oregon attorneys who are otherwise exempt from PLF Primary coverage. This coverage is available only to those Pro Bono Programs that do not otherwise have comparable malpractice coverage for volunteer lawyers. Because this coverage is provided at no cost, it is intended to apply only to claims based on or arising from the actual or alleged conduct of volunteer attorneys when there is no other plan or insurance coverage that would apply to any such claim. The terms of coverage provided by the PLF to Pro Bono Programs may not be the same, in some respects, as the coverage provided under the PLF Primary Coverage Plan. The Pro Bono Program and its volunteers should carefully review the terms of this PLF Pro Bono Plan coverage in order to understand its restrictions, limitations, exclusions, conditions, and applicable limits of coverage.

Throughout this PLF Pro Bono Coverage Plan ("Plan"), issued to the Pro Bono Program, identified in the Declarations: Pro Bono Program refers to the Named Program shown in the Declarations; Plan Year means the period of January 1 through December 31 of the calendar year for which this Plan was issued; and Coverage Period means the coverage period shown in the Declarations under the heading “Coverage Period.”

When terms appear in bold, with the first letter capitalized, they have the defined meanings set forth, or referenced, in this Plan. Certain definitions and provisions of the PLF Primary Coverage Plan are incorporated in this Plan, by reference. A List and Index of Defined Terms is attached as Appendix A.

SECTION I – COVERAGE AGREEMENT

Subject to the terms, conditions, definitions, exclusions, and limitations set forth in this Plan and the applicable Limit of Coverage and Claims Expense Allowance as these are defined and described in Section VIII, the coverage provided by this Plan is as follows:

A. Indemnity

The PLF will pay all sums a Covered Party is Legally Obligated to pay as Damages as a result of a Claim arising from a Covered Activity to which the Coverage Period of this Plan applies, as determined by the rules set forth in Section IV.

A Claim means a demand for Damages, or written notice to a Covered Party of an intent to hold a Covered Party liable as a result of a Covered Activity, if such notice might reasonably be expected to result in an assertion of a right to Damages.

Legally Obligated to pay Damages means a Covered Party is required to make actual payment of monetary Damages and is not protected or absolved from actual payment of Damages by reason of any covenant not to execute, other contractual agreement of any kind, or a court order, preventing the ability of the Claimant to collect money Damages directly from the Covered Party.

Damages means monetary compensation a Covered Party must pay for loss and does not include:

a. Fines, penalties, statutorily enhanced damages, or enhanced prevailing fees;

b. Punitive or exemplary damages;

c. The return, forfeiture, disgorgement, restitution, reduction, or offset of any fees, costs, expenses or disbursements paid to, charged by, or owed to any Covered Party or to any Law Entity with which any Covered Party was associated at the time any such fees, costs, expenses or disbursements were
paid, charged, or incurred, including but not limited to fees, costs, expenses or disbursements alleged to be excessive, not earned, unnecessary, ill-advised, or caused, in whole or in part, by any alleged negligent advice;

d. Rescission, injunctions, accountings, restitution, equitable relief;

e. Any personal profit or advantage to a Covered Party;

f. Any award of attorney fees, costs, or interest arising from any claim referenced in (a) through (e) above, or from any excluded claim.

The following illustrative examples, not intended to be exhaustive, are provided for the purpose of assisting a Covered Party or court in interpreting the PLF’s intent as to the scope of Damages covered under the Plan:

Example 1: Attorney A sues Client for unpaid fees; Client counterclaims for the return of fees already paid to Attorney A, which allegedly were excessive. Because this is not a claim for Damages, it is not covered.

Example 2: Attorney B allows a default to be taken against Client, and bills an additional $2,500 in attorney fees incurred by Attorney B in his successful effort to get the default set aside. Client pays the bill but later sues Attorney B to recover the fees paid. This is not a claim for Damages, as defined in the Plan. Therefore, it is not covered.

Example 3: Attorney C writes a demand letter to Client for unpaid fees and then files a lawsuit for collection of the fees. Client counterclaims for unlawful debt collection. Under the definition of Damages, there is no coverage for the claim. The same is true if Client is the plaintiff and sues for unlawful debt collection in response to the demand letter from Attorney C.

Example 4: Attorney D negotiates a fee and security agreement with Client on behalf of Attorney D’s own firm. Other firm members, not Attorney D, represent Client. Attorney D later leaves the firm, Client disputes the fee and security agreement, and the firm sues Attorney D for negligence in representing the firm. Under the definition of Damages, there is no coverage for the claim.

Example 5: Attorney E takes a security interest in stock belonging to Client as security for fees. Client fails to pay the fees, and Attorney E executes on the stock and becomes the owner. Client sues for recovery of the stock and damages. Under the definition of Damages, there is no coverage for the claim. The same is true if Attorney E receives the stock as a fee and is sued later for recovery of the stock or damages.

Example 6: Attorney F advises client to sue a third party, charging substantial fees to file and litigate the suit. Client receives a very small recovery and sues Attorney F alleging that Attorney F was negligent in advising Client to sue the third party. Client sues Attorney F to recover the fees and costs Client spent or owes for pursuing the third party claim. Client alleges Attorney F should have realized the cost of pursuing the claim was not justified. This claim is not covered because the amounts sought by Client are not Damages. The same is true if Client claims that Attorney F was negligent for not advising Client that Attorney F, or another attorney, may have agreed to pursue the claim for a contingent fee.

Example 7: Attorney G fails to properly request attorney fees from an opposing party. As a result Client sues Attorney G because Client could have recovered fees if Attorney G had properly pursued them. This claim seeks Damages covered under the Plan.
B. Defense

1. The PLF will defend a Covered Party against any Suit seeking Damages to which this Plan applies until the Claims Expense Allowance and the Limit of Coverage are exhausted. The PLF is not bound by any Covered Party’s agreement to resolve a dispute through arbitration or any other alternative dispute resolution proceeding, and has no duty to defend or indemnify regarding any dispute handled or resolved in this manner without its consent.

   Suit means a civil lawsuit. Suit also includes an arbitration or other alternative dispute resolution proceeding only if the PLF expressly consents to it.

2. The PLF has the sole right to select and appoint defense counsel, to control the defense and investigation of a Claim and, in its discretion, to settle any Claim to which this Plan applies. The PLF has no duty to contribute to the settlement of a Claim based on projected defense costs or on potential liability arising from uncovered Claims. Subject to its sole discretion, the PLF may also elect to take steps, or make expenditures, to investigate, prevent, mitigate, review, or repair any Claim or matter that may create the potential for a Claim.

3. The PLF will pay Claims Expense the PLF incurs.

   Claims Expense means: fees and expenses charged by any attorney designated by the PLF; all other fees, costs and expenses incurred by the PLF resulting from its investigation, adjustment, defense, prevention, mitigation, review, repair, or appeal of a Claim, or any matter that may create the potential for a Claim; or fees charged by any attorney designated by the Covered Party with the PLF’s written consent. The PLF’s costs for compensation of its regular employees are not considered Claims Expense and do not reduce the available Limit of Coverage.

4. Notwithstanding Exclusions 2 and 4 incorporated in this Plan by Section VI, the PLF will defend Claims for which coverage is excluded under Exclusion 4, and Claims for malicious prosecution, abuse of process and wrongful initiation of civil proceedings, provided such Claims arise out of a Covered Activity and are not otherwise excluded by other applicable exclusions in this Plan. The PLF, however, will not have any duty to indemnify regarding any matter it defends pursuant to this provision.

5. The PLF does not have a duty to defend any Claim, or the portion of any Claim, that is not a Claim for Damages, as defined in Section I A. In the event the PLF voluntarily agrees to defend any Claim, or any portion of a Claim, that does not seek Damages, it will be subject to the Covered Party’s agreement that the Covered Party will cooperate with the PLF’s attempt to settle or dismiss any alleged Claim for Damages that may also be alleged. Following any such dismissal or settlement the PLF will have the right to withdraw from the defense of any remaining claim.

C. Exhaustion of Limits

The PLF is not obligated to investigate, defend, pay, or settle any Claim after the applicable Limit of Coverage and Claims Expense Allowance have been exhausted.

D. No Prior Knowledge or Prior Coverage

This Plan applies only to a Covered Activity that occurred either: (a) during the Coverage Period; or (b) before the Coverage Period if (i) on the effective date of this Plan, the Covered Party had no knowledge of any Claim having been asserted or of any facts or circumstances of which the Covered Party was aware, or reasonably should have been aware, could reasonably result in a Claim arising out of the Covered Activity; (ii) the actual or alleged error, omission negligent act or breach of duty on which the Claim is based occurred during a period in which a previous PLF Pro Bono Plan applied to the Pro Bono Program; and (iii) there is no prior plan or policy that provides coverage for such liability or Claim, whether or not the available limits of such prior plan or policy are sufficient to pay any liability or Claim.
E. Coverage Territory

This Plan applies to Suits brought in the United States, its territories or possessions, within the jurisdiction of any Indian tribe in the United States, or to any Suit brought in Canada. It does not apply to Suits in any other jurisdiction, or to any Suit to enforce a Judgment rendered in any other such jurisdiction.

SECTION II – WHO IS A COVERED PARTY UNDER THIS PRO BONO PLAN?

Only the following are Covered Parties under this Plan:

A. Individual Volunteer Attorneys

An individual Volunteer Attorney is a Covered Party, but only with respect to a Claim arising from Covered Activities rendered on behalf of the Pro Bono Program, and only if there is no other plan or insurance coverage that applies to such Claim.

Volunteer Attorney means an Oregon attorney who: (1) is not otherwise covered under a PLF Primary Coverage Plan; (2) provided pro bono Professional Legal Services or Special Capacity Services to clients of the Pro Bono Program; (3) is not employed or compensated in any way by the Pro Bono Program; and (4) was eligible to provide voluntary Professional Legal Services or Special Capacity Services under the applicable rules of the Oregon State Bar at the time such services were provided.

Pro Bono Program means the Pro Bono Program named in the Declarations.

B. The Pro Bono Program

The Pro Bono Program is also a Covered Party under this Plan, but only to the limited extent it is legally liable for any Claim based on or arising from a Volunteer Attorney’s Covered Activities, and only provided the Pro Bono Program has no other applicable plan or insurance coverage for any such liability. In the event any Claim against a Volunteer Attorney also involves Claims against employees of the Pro Bono Program, any defense or indemnity under this Plan is limited to that portion of the Pro Bono Program’s legal liability that relates to a Volunteer Attorney’s Covered Activities.

SECTION III – WHAT IS A COVERED ACTIVITY?

For the purposes of this Plan, a Covered Activity is an error, omission, negligent act, or breach of duty by a Volunteer Attorney in the course of providing or failing to provide Professional Legal Services or Special Capacity Services to a client or clients of the Pro Bono Program, but only if such services are within the scope of duties assigned to the Volunteer Attorney by the Pro Bono Program.

Professional Legal Services and Special Capacity Services have the meanings set forth in the PLF Primary Coverage Plan in effect during this Plan Year and are subject to all the same limitations and conditions set forth in subsections B and C of Section III of the PLF Primary Coverage Plan for this Plan Year.
SECTION IV – WHAT IS THE APPLICABLE COVERAGE PERIOD?

A. Date of Claim

Subject to Subsection IV B, the Coverage Period in effect on the earliest of the following dates applies to a Claim or matter:

1. The date a lawsuit is first filed or an arbitration or alternative dispute resolution proceeding is first initiated against a Covered Party under this Plan;
2. The date the PLF first becomes aware of a matter involving facts or circumstances that could reasonably result in a Claim against a Covered Party under this Plan;
3. The date any Covered Party under this Plan first becomes aware of a matter involving facts or circumstances that could reasonably result in a Claim against a Covered Party under this Plan;
4. The date any Covered Party under this Plan receives notice of a Claim;
5. The date the PLF receives notice of a Claim against a Covered Party under this Plan; or
6. If subsections 1 through 5 do not apply, the date the PLF opens a file in order to take steps and/or make expenditures, for the purpose of investigation, mitigation, review, or prevention of any potential Claim against a Covered Party under this Plan.

In the case of matters falling only within subsection 6, in the event there is any subsequent Claim against a Covered Party under this Plan, relating to or arising from such matter, the Plan Year is the year the Claim is asserted, but the Limit of Coverage and/or Claims Expense Allowance for the Plan Year applicable to such Claim is reduced by the amount the PLF spends on the matter.

B. Special Rule Regarding Coverage Period Applicable to Related Claims Against Associated Attorneys

If any Claim against a Covered Party under this Plan is Related to one or more Related Claim(s) against any Associated Attorney the Coverage Period in effect on the earliest of the following dates applies to the Claim:

1. The date a lawsuit was first filed, or an arbitration or alternative dispute resolution proceeding was initiated with respect to the earliest of the Related Claims;
2. The date the PLF first became aware of facts or circumstances that could reasonably result in the earliest of the Related Claims;
3. The date any Covered Party under this Plan first became aware of facts or circumstances that could reasonably result in the earliest of the Related Claims;
4. The first date any Associated Attorney first became aware of facts or circumstances that could result in the earliest of the Related Claims;
5. The date the PLF received notice of the earliest Related Claim;
6. The date any Covered Party under this Plan received notice of the earliest Related Claim; or
7. The first date any Associated Attorney received notice of the earliest Related Claim.
**Associated Attorney** means any attorney who, at the time of the representation, advice, or activity at issue, or during any portion of such representation, advice, or activity: (1) was working with or for the **Pro Bono Program**; or (2) worked in association or as co-counsel with any **Covered Party** under this Plan regarding the representation, advice, or activity that is the subject of the **Claim**.

However, if the **Pro Bono Program** did not have a PLF Pro Bono Plan in effect on the date applicable to the earliest **Related Claim** pursuant to this subsection IV B, and the **Pro Bono Program** has no other insurance from any source that is applicable to the **Claim**, regardless of whether the available limits of such policy are sufficient to cover liability for the **Claim**, any applicable **Coverage Period** for the **Related Claim** is determined using the method set forth in Section IV A.

**SECTION V – RELATED CLAIMS**

A **Claim** against a **Covered Party** under this Plan may be **Related** to another **Claim** against the same **Covered Party** and/or to a **Claim(s)** against other **Covered Parties**, or attorneys covered under other PLF Plans. If **Claims** are **Related**, special rules, set forth in Section VIII C, govern the total amount the PLF will pay in defense and indemnity of all such **Claims**. Subject only to the exceptions set forth in the PLF Primary Plan in effect for this Plan Year, two or more **Claims** are **Related** when they are based on or arise out of facts, practices, circumstances, situations, transactions, occurrences, activities covered under this or any other PLF Plan, or damages, liabilities or the relationship of the people or entities involved (including clients, Claimants, attorneys and/or other advisors) that are logically or causally connected or share a common bond or nexus. General and illustrative examples of which Claims are Related are set forth in the PLF Primary Plan in effect during this Plan Year. These examples are not intended to be exhaustive, are incorporated by reference, and have the same force and effect as if fully set forth in this Plan.

**SECTION VI – APPLICABLE EXCLUSIONS IN PLF PRIMARY COVERAGE PLAN**

All Exclusions in the PLF Primary Coverage Plan, in effect during this **Plan Year**, except Exclusion 6, apply equally to the coverage under this Plan. These exclusions are incorporated by reference and have the same force and effect as if fully set forth in this Plan.

**SECTION VII – PRO BONO PLAN ADDITIONAL EXCLUSIONS**

1. **Activities outside Pro Bono Program Exclusion.** This Plan does not apply to any **Claim** against a **Covered Party** arising from or related to work or services beyond the scope of activities assigned to the **Volunteer Attorney** by the **Pro Bono Program**.

2. **Business Interests.** This Plan does not apply to any **Claim** by a business enterprise:
   a. In which any **Covered Party** has an **Ownership Interest**; or in which any **Covered Party** is a general partner, managing member, or employee; or in which any **Covered Party** controls, operates or manages, either individually or a fiduciary capacity, any property that is owned, managed or maintained by the business enterprise; or
   b. At the time of the alleged acts, errors or omissions on which the **Claim** is based: any **Covered Party** had an **Ownership Interest** in the business enterprise; any **Covered Party** was a general partner, managing member,
or employee of the business enterprise; or any Covered Party controlled, operated, or managed, either individually or a fiduciary capacity, any property that was owned, managed, or maintained by the business enterprise.

Ownership Interest means any Covered Party and those controlled by any Covered Party, the spouse, parent, stepparent, child, stepchild, sibling, or any member of any Covered Party’s household, or those with whom any Covered Party is regularly engaged in the practice of law, collectively own more than 10% of the business enterprise or owned more than 10% of the business enterprise at the time of the alleged acts, errors or omissions on which the Claim is based.

SECTION VIII – LIMIT OF COVERAGE, CLAIMS EXPENSE ALLOWANCE, AND SPECIAL LIMITS REGARDING RELATED CLAIMS

A. Limit of Coverage

The Limit of Coverage for the Coverage Period of this Plan is $300,000. This is a maximum aggregate limit applicable to any and all Claims or matters to which this Plan applies. The making of multiple Claims against any Covered Party or against multiple Covered Parties will not increase the Limit of Coverage, which is reduced by the following payments arising from Claims or matters to which the Coverage Period of this Plan applies:

1. All Claims Expense paid by the PLF, on behalf of any Covered Party under this Plan, that is in excess of any applicable Claims Expense Allowance; and
2. The PLF’s payment, on behalf of any Covered Party under this Plan, of any and all amounts relating to settlements, judgments or any other indemnity payments based on or arising from any and all Claims, or matters that may have the potential to create or result in Claims, against any Covered Party under this Plan.

The shared single $300,000 Limit of Coverage under this Plan applies both to Claims against any and all Volunteer Attorneys to whom this Plan applies and to Claims against the Pro Bono Program for any and all Claims based on or arising from the actual or alleged conduct of any and all such Volunteer Attorneys. Multiple Claims against the Pro Bono Program and/or against any Volunteer Attorney(s) will not increase this $300,000 single Limit of Coverage. If, for example, there is a Claim based on the conduct of one Volunteer Attorney that consumes or reduces the Limit of Coverage under this Plan, there is either no further coverage under this Plan for any Covered Party, or a reduced Limit of Coverage. This Limit of Coverage is also subject to Section VII C below regarding Related Claims.

B. Claims Expense Allowance

In addition to the Limit of Coverage, this Plan also provides a single separate Claims Expense Allowance, meaning an additional allowance in the maximum aggregate amount of $50,000, applicable to the investigation and/or defense of any and all Claims against all Covered Parties under this Plan subject to Section VIII C below. The Claims Expense Allowance may be applied only to Claims Expenses, and not to any settlements, judgments or any other indemnity payments.

The shared single $50,000 Claims Expense Allowance under this Plan applies both to Claims against any and all Volunteer Attorneys to whom this Plan applies and/or to Claims against the Pro Bono Program. Multiple Claims against the Pro Bono Program and/or against any Volunteer Attorney(s) will not increase this single $50,000 Claims Expense Allowance. If, for example, there is a Claim based on the conduct of one Volunteer Attorney that consumes or reduces the Claims Expense Allowance, there is either no further Claims Expense Allowance under this Plan for any Covered Party, or a reduced Claims Expense Allowance.

C. Special Rules and Limits for Related Claims
If a Claim against a Covered Party is Related to another Claim against that Covered Party, to any Claim against any other Covered Party under this Plan, or to a Claim against any other attorney, law entity, or Pro Bono Program covered by the PLF under this or any other PLF Plan, then regardless of the number of Claims, Claimants, clients, attorneys, volunteer attorneys, pro bono programs or law entities involved, the PLF will not pay more than a maximum total of $300,000, plus a maximum of one $50,000 Claims Expense Allowance to defend and/or indemnify all parties covered under this or any other PLF Plan regarding all such Related Claims. This is subject only to the discretionary exception stated below regarding Claims Expense Allowances. In addition, the portion of this total maximum Related Claim limit available for any Claim based on or arising from the actual or alleged conduct of a Covered Party cannot exceed the amount of the remaining limit available under this Plan for the applicable Coverage Period.

The total maximum limit applicable to Related Claims is reduced as the PLF makes expenditures on Related Claims, whether on behalf of any Covered Party under this Plan, or on behalf of any other parties covered under any other PLF Plans against whom Related Claims are made. After the total applicable limit for Related Claims and any Claims Expense Allowance has been exhausted, the PLF is not obligated to investigate, defend, pay or settle any Related Claim against any Covered Party.

Only one Claims Expense Allowance applies regarding Related Claims against any and all Covered Parties under this Plan and against any parties covered under any other PLF Plan. In the sole discretion of the PLF, however, it may grant separate Claims Expense Allowances when there are Related Claims against other parties covered under other PLF Plans.

If the Claims Expense Allowance for the applicable Coverage Period has already been depleted or exhausted by other Claims or matters, the amount of the Claims Expense Allowance will be limited to whatever remains of the Claims Expense Allowance for that Coverage Period.

SECTION IX – DUTIES OF COVERED PARTIES

A. Notice of Claims, Suits, and Circumstances

As a condition precedent to any right of protection afforded by this Plan, the Covered Party must give the PLF, at the address shown in the Declarations, timely written notice of any Claim, Suit, or circumstances, as follows:

1. The Covered Party must immediately notify the PLF of any Suit filed against the Covered Party and deliver to the PLF every demand, notice, summons, or other process received.

2. If the Covered Party receives notice of a Claim, or becomes aware of facts or circumstances that reasonably could be expected to be the basis of a Claim for which coverage may be provided under this Plan, the Covered Party must give written notice to the PLF as soon as practicable of: the specific act, error, or omission; any damages or other injury that has resulted or may result; and the circumstances by which the Covered Party first became aware of such act, error, or omission.

3. If the PLF opens a suspense or Claim file involving a Claim or potential Claim which otherwise would require notice from the Covered Party under subsection 1 or 2 above, the Covered Party’s obligations under those subsections will be considered satisfied for that Claim or potential Claim.

B. Other Duties of Cooperation

As a condition of coverage under this Plan, every Covered Party must satisfy the duties of cooperation as set forth in Section VIII B through E of the PLF Primary Coverage Plan. These conditions are incorporated in this Plan by reference, and have the same force and effect as if fully set forth in this Plan.
SECTION X – ACTIONS BETWEEN THE PLF AND COVERED PARTIES

The provisions of Section IX of the PLF Primary Coverage Plan, applicable to this Plan Year, are incorporated into this Plan by reference and have the same force and effect as if fully set forth in this Plan.

SECTION XI – RELATION OF THE PLF’S COVERAGE TO INSURANCE COVERAGE OR OTHER COVERAGE

If any Covered Party has valid and collectible insurance coverage or other obligation to indemnify, including but not limited to self-insured retentions, deductibles, or self-insurance, that also applies to any loss or Claim covered by this Plan, the PLF will not be liable under this Plan until the limits of the Covered Party’s insurance or other obligation to indemnify, including any applicable deductible, have been exhausted, unless such insurance or other obligation to indemnify is written only as specific excess coverage over the Limit of Coverage of this Plan.

SECTION XII – WAIVER AND ESTOPPEL

The provisions of Section XII of the PLF Primary Coverage Plan, applicable to this Plan Year are incorporated by reference and have the same force and effect as if fully set forth in this Plan.

SECTION XIII — ASSIGNMENT

Any interest of any Covered Party under this Plan is not assignable. Any such assignment or attempted assignment without the express written consent of the PLF voids any coverage under the Plan.

SECTION XIV — TERMINATION

This Plan will terminate immediately and automatically in the event the Pro Bono Program is no longer certified as a Pro Bono Program by the Oregon State Bar.
APPENDIX A — LIST AND INDEX OF DEFINED TERMS

1. **Associated Attorney** means any attorney who, at the time of the representation, advice, or activity at issue, or during any portion of such representation, advice, or activity: (1) was working with or for the **Pro Bono Program**; or (2) worked in association or as co-counsel with any **Covered Party** under this Plan regarding the representation, advice, or activity that is the subject of the **Claim(s)**. (Section IV B 7, p. 5-6)

2. **Claim** means a demand for **Damages**, or written notice to a **Covered Party** of an intent to hold a **Covered Party** liable as a result of a **Covered Activity**, if such notice might reasonably be expected to result in an assertion of a right to **Damages**. (p. 1)

3. **Claims Expense** has the meaning set forth in Section I B 3. (p. 3)

4. **Claims Expense Allowance** means the separate allowance for aggregate **Claims Expense** for all **Claims** as provided for in Section VIII B. (p. 7)

5. **Coverage Period** means the coverage period shown in the Declarations under the heading “Coverage Period.” (¶2, p. 1)

6. **Covered Activity** has the meaning set forth in Section II. (p. 4)

7. **Covered Party** has the meaning set forth in Section II A and B. (p. 4)

8. **Damages** has the meaning set forth in Section I A. (pp. 1-2)

9. **Law Entity** has the meaning set forth in Section II B of the Primary Plan. (Primary Plan, p. 3)

10. **Legally Obligated** has the meaning set forth in Section I A. (p. 1)

11. **Limit of Coverage** has the meaning set forth in Section VIII A. (p. 7)

12. **Ownership Interest** has the meaning set forth in Section VII 2. (p. 7)

13. **Plan Year** means the period of January 1 through December 31 of the calendar year for which this Plan was issued. (¶2, p. 1)

14. **Pro Bono Program** means the Named Program shown in the Declarations. (¶2, p. 1)

15. **Professional Legal Services** has the meaning set forth in Section III, ¶2. (p. 4)

16. **Related Claims** has the meaning set forth in Section V. (p. 6)

17. **Special Capacity Services** has the meaning set forth in Section III, ¶2. (p. 4)

18. **Suit** means a civil lawsuit. **Suit** also includes an arbitration or alternative dispute resolution proceeding only if the PLF expressly consents to it. (Section I B, p. 3)

19. **Volunteer Attorney** has the meaning set forth in Section II A. (p. 4)
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PLF Claims Made Excess Plan
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INTRODUCTION
Effective 1.1.2020

This Professional Liability Fund (“PLF”) Excess Plan is excess coverage over the PLF Primary Plan and is also assessable. Although the coverage provided under both the Primary and Excess Plans is similar, not all terms, conditions, definitions, and exclusions are the same. Coverage under this Plan is more restrictive and differs in some respects. You should read both the Primary and Excess Plans, in their entirety, to understand your coverage.

When terms appear in bold, with the first letter capitalized, they have the defined meanings set forth, or referenced, in this Plan. Certain definitions and provisions of the PLF Primary Plan are incorporated in this Plan, by reference. A List and Index of Defined Terms is attached as Appendix A. For the purposes of illustrating the PLF’s intent as to certain provisions in this Plan, Appendix B contains related examples.

Plan Year means the period of January 1 through December 31 of the calendar year for which this Excess Plan was issued. Coverage Period means the coverage period shown in the Declarations under the heading “Coverage Period.”

Subject to the terms, conditions, definitions, exclusions and limitations set forth in this Excess Plan and the applicable Excess Limit of Coverage, as set forth in the Declarations, and defined in Section VII, this Plan provides the following coverage:

SECTION I – COVERAGE AGREEMENT

A. Indemnity

The PLF will pay all sums in excess of the Applicable Underlying Limit and/or applicable Deductible that a Covered Party under this Plan, becomes Legally Obligated to pay because of Claims First Made against a Covered Party during the Coverage Period, arising from a Covered Activity, to which this Plan applies.

Applicable Underlying Limit means the aggregate total of: (I) the amount of coverage afforded by the PLF Plans issued to all persons qualifying as Covered Parties under the terms of this Plan; plus (2) the amount of any other coverage available to any Covered Party with respect to the Claim for which coverage is sought.

Claim, Damages, and Legally Obligated have the meanings set forth in the PLF Primary Plan in effect during this Plan Year.

B. Defense

1. After the Applicable Underlying Limit has been exhausted and the applicable Deductible has been satisfied, the PLF will defend any Suit against a Covered Party seeking Damages to which this Plan applies until the Excess Limit of Coverage is exhausted. The PLF is not bound by any Covered Party’s agreement to resolve a dispute through arbitration or any other alternative dispute proceeding, and has no duty to defend or indemnify regarding any dispute handled or resolved in this manner without its consent.

2. The PLF has the sole right to select and appoint defense counsel, to control the defense and investigation of a Claim, and, in its discretion, to settle any Claim to which this Plan applies. The PLF has no duty to contribute to the settlement of a Claim based only on projected defense costs or potential liability arising from uncovered claims. Subject to its sole discretion, the PLF may also elect to take steps, or make expenditures, to investigate, prevent, mitigate, review, or repair any Claim or matter that may create the potential for a Claim.
3. The PLF will pay all Claims Expense it incurs, and all such payments will reduce the Excess Limit of Coverage.

4. Notwithstanding Exclusions 2 and 4 of the PLF Primary Plan, incorporated in this Plan by reference, the PLF will defend Claims for which coverage is excluded under Exclusion 4, and Claims for malicious prosecution, abuse of process, and wrongful initiation of civil proceedings, provided such Claims arise out of Your Covered Activities and are not otherwise excluded by other applicable exclusions in this Plan. The PLF, however, will not have any duty to indemnify regarding any matter it defends pursuant to this provision.

Suit and Claims Expense have the meanings set forth in the PLF Primary Plan in effect during this Plan Year.

5. The PLF does not have a duty to defend any Claim, or the portion of any Claim, that is not a Claim for Damages, as defined in Section I A. In the event the PLF voluntarily agrees to defend any Claim, or any portion of a Claim, that does not seek Damages, it will be subject to the Covered Party's agreement that the Covered Party will cooperate with the PLF's attempt to settle or dismiss any alleged Claim for Damages that may also be alleged. Following any such dismissal or settlement, the PLF will have the right to withdraw from the defense of any remaining claim.

C. Exhaustion of Limit
The PLF is not obligated to investigate, defend, pay, or settle any Claim after the applicable Excess Limit of Coverage has been exhausted.

D. Coverage Territory
This Plan applies only to Suits brought in the United States, its territories, or possessions, within the jurisdiction of any Indian tribe in the United States, or to any Suit brought in Canada. It does not apply to Suits in any other jurisdiction, or to any Suit to enforce a Judgment rendered in any other such jurisdiction.

E. Basic Terms of Coverage
This Plan applies to Claims for Damages against a Covered Party arising from a Covered Activity, subject to all definitions, terms, restrictions, limitations, and exclusions applicable to this Plan, and the Excess Limit of Coverage, provided all the following terms and conditions of coverage are satisfied:

1. The Claim must be First Made, as determined by the rules set forth in Section IV, during the Coverage Period;

2. The Covered Activity on which the Claim is based must have been rendered on behalf of the Firm;

3. The Covered Activity on which the Claim is based must have occurred after the Retroactive Date listed in the Declarations, or listed in any endorsement to the Declarations;

4. The Covered Activity on which the Claim is based must have occurred:

   a. During the Coverage Period; or

   b. Before the Coverage Period, but only provided each of the following conditions are met:

      (i) The Firm circulated its Application for Coverage among all attorneys listed in Section 10 of the Declarations as “Firm Attorneys,” and those listed in Section 14 of the Declarations as current “Non Oregon Attorneys”;

      (ii) Before the effective date of this Plan, no Covered Party had a basis to believe that the error, omission, negligent act, or breach of duty was a breach of the standard of care, or may result in a Claim; and
(iii) There are no prior policy, policies, or agreements to indemnify that provide coverage for such liability or Claim, regardless of whether the available limits of any such policy, policies, or agreements to indemnify are subject to different limits, or otherwise differ from this Plan, and regardless of whether the limits of any such policy, policies, or agreements to indemnify are sufficient to pay any liability or Claim.

Subsection 4 b (ii) will not apply as to any Covered Party who, before the effective date of this Excess Plan, did not have a basis to believe the error, omission, negligent act, or breach of duty was a breach of the standard of care or may result in a Claim.

For the purposes of demonstrating the PLF’s intent as to how this subsection 4 applies, illustrative examples are set forth in Appendix B of this Plan.

5. There must have been full and timely payment of all assessments relating to this Plan; and

6. There must have been compliance with the Duties of Covered Parties, as set forth in Section IX.

SECTION II – WHO IS A COVERED PARTY UNDER THIS EXCESS PLAN?

Only the following are Covered Parties:

A. The Firm

The Firm is a Covered Party under this Excess Plan but only with respect to liability arising out of the conduct of: an attorney(s) who is not an Excluded Attorney and qualifies as a Covered Party under Section II B; or a Non Attorney employee, subject to the terms and conditions of Section III.

Firm means any Law Entity designated in Section 1 or 11 of the Declarations.

Excluded Attorney means an attorney who is designated as such in the Declarations.

Law Entity and Non Attorney have the meanings set forth in the PLF Primary Plan in effect during this Plan Year.

B. Individual Covered Parties

Only the following individuals, not otherwise listed in the Declarations as Excluded Attorneys, are Covered Parties under this Excess Plan as to any Claim to which this Plan applies, and only with respect to Claims arising from Covered Activities rendered on behalf of the Firm, as attorneys in Private Practice:

1. Attorneys who are specifically designated in the Declarations as “Firm Attorney,” “Former Attorney,” or “Non Oregon Attorney.”

2. A former partner, shareholder, member, or attorney employee of the Firm who ceased to be affiliated with the Firm more than five (5) years prior to the beginning of the Coverage Period, but only with respect to Claims arising out of a Covered Activity that took place while a PLF Primary Plan issued to that attorney was in effect.

3. An attorney who becomes affiliated with the Firm after the beginning of the Coverage Period and who has been issued a PLF Primary Plan is automatically a Covered Party – unless the attorney becomes affiliated with the Firm as a result of one of the changes required to be reported to the PLF and newly underwritten pursuant to Section IX D. In that event, the attorney is not covered under the Plan until and unless coverage for the affiliated attorney is underwritten and specifically accepted by the PLF. (See, Section IX D.)
4. In the event of the death, adjudicated incapacity, or bankruptcy of a Covered Party, the conservator, guardian, trustee in bankruptcy, or legal or personal representative of the Covered Party, when acting in such capacity, is a Covered Party.

Private Practice has the meaning set forth in the PLF Primary Plan in effect during this Plan Year.

SECTION III – WHAT IS A COVERED ACTIVITY?

For the purposes of this Excess Plan, a Covered Activity is an error, omission, negligent act, or breach of duty: by a Covered Party in the course of providing or failing to provide Professional Legal Services or Special Capacity Services; or by a Non Attorney employee, for whose conduct a Covered Party is legally liable, who assists in providing such services, provided:

1. The error, omission, negligent act, or breach of duty, by the Covered Party, on which the Claim is based, occurred after any applicable Retroactive Date, before such Covered Party’s applicable Separation Date, specified in the Declarations, and satisfies the conditions of Section I E 4;
2. The error, omission, negligent act, or breach of duty by the Covered Party, on which the Claim is based, constituted rendering Professional Legal Services or Special Capacity Services on behalf of the Firm, as an attorney in Private Practice; and
3. Any error, omission, negligent act, or breach of duty by a Non Attorney employee must be directly related to a Covered Party’s rendering of Professional Legal Services or Special Capacity Services, on behalf of the Firm, that meets the conditions of subsections 1 and 2 above.

Professional Legal Services and Special Capacity Services have the meanings set forth in the PLF Primary Plan in effect during this Plan Year.

SECTION IV – WHEN IS A CLAIM FIRST MADE?

A. Date of Claim

For the purposes of this Excess Plan, subject to the exception set forth in Section IV B, regarding Excess-Related Claims, a Claim is First Made on the earliest of the following dates:

1. The date a lawsuit is first filed, or an arbitration or alternative dispute resolution proceeding is first initiated against a Covered Party;
2. The date the PLF first becomes aware of a matter involving facts or circumstances that could reasonably result in a Claim against a Covered Party;
3. The date any Covered Party receives notice of a Claim;
4. The date the PLF receives notice of a Claim against a Covered Party; or
5. The date a Covered Party under this Plan first becomes aware that a claimant intends to make a Claim, but the claimant is delaying assertion of the Claim, or the Covered Party is delaying notice of such intent to make a Claim, for the purpose of obtaining coverage under a later Plan.

B. Excess-Related Claims

When a Claim is Excess-Related to an earlier Claim or Claims against any Covered Party or Parties under this Excess Plan, the Claim is First Made on the date the earliest such Excess-Related Claim was First Made.
SECTION V – EXCESS-RELATED CLAIMS

A. Definition of Excess-Related Claims

For the purposes of this Excess Plan, two or more Claims are Excess-Related when the Claims are based on or arise out of facts, practices, circumstances, situations, transactions, occurrences, Covered Activities, damages, liabilities, or the relationships of the people or entities involved (including clients, claimants, attorneys, and/or other advisors) that are logically or causally connected or linked or share a common bond or nexus; and such Claims have been asserted, or are asserted, against Covered Parties under this Excess Plan.

General examples of Excess-Related Claims include, but are not limited to, the following:

1. Claims such as those based on vicarious liability, failure to supervise, or negligent referral;
2. Multiple Claims arising out of the same transaction, or occurrence, or series of transactions or occurrences;
3. Claims in which the claimants tie together different acts as part of an alleged overall scheme or operation;
4. Claims that arise from a method, pattern, or practice used or adopted by one or more Covered Party or Law Entities representing multiple clients in similar matters;
5. Claims in which successive or collective errors each cause or contribute to single or multiple clients’ and/or claimants’ harm, or cumulatively enhance their damages or losses; or
6. Claims alleged as part of a class action or purported class action.

Related Claims, as defined in the PLF Primary Plan, against other attorneys or firms not Covered Parties under this Plan do not necessarily cause a Claim to which this Excess Plan applies to relate back to the same excess Plan Year applicable to Related Claims under the PLF Primary Plan. Prior knowledge of a Covered Party or Parties of the potential for a Claim before the inception date of this Plan, however, may cause a Claim not to be covered under this Plan under the terms of Section I E 4.

For the purpose of demonstrating the PLF’s intent as to what constitutes an Excess-Related Claim, illustrative examples are set forth in Appendix B of this Plan.

B. What Happens When Claims Are Excess-Related?

When Claims are Excess-Related, they are all considered as having been First Made on the date the earliest such Claim is First Made. This causes all such Claims to share the same maximum Excess Limit of Coverage that was in effect when the earliest such Claim was First Made.

SECTION VI – APPLICABLE EXCLUSIONS IN PLF PRIMARY PLAN

All Exclusions in the PLF Primary Plan, in effect during this Plan Year, except Exclusion 6 (Business Interests) apply equally to the coverage under this Excess Plan. These exclusions are incorporated by reference and have the same force and effect as if fully set forth in this Plan.
SECTION VII – EXCESS PLAN
ADDITIONAL EXCLUSIONS

1. **Business Interests.** This Plan does not apply to any **Claim** by a business enterprise:
   a. In which any **Covered Party** has an **Ownership Interest**; or in which any **Covered Party** is a general partner, managing member, or employee; or in which any **Covered Party** controls, operates or manages, either individually or a fiduciary capacity, any property that is owned, managed or maintained by the business enterprise; or
   b. At the time of the alleged acts, errors or omissions on which the **Claim** is based: any **Covered Party** had an **Ownership Interest** in the business enterprise; any **Covered Party** was a general partner, managing member, or employee of the business enterprise; or any **Covered Party** controlled, operated, or managed, either individually or a fiduciary capacity, any property that was owned, managed, or maintained by the business enterprise.

   **Ownership Interest** means that any **Covered Party**, those controlled by any **Covered Party**, the spouse, parent, stepparent, child, stepchild, sibling or any member of any **Covered Party**’s household, or those with whom any **Covered Party** is regularly engaged in the practice of law collectively owns more than 10% of the business enterprise or owned more than 10% of the business enterprise at the time of the alleged acts, errors or omissions on which the **Claim** is based.

2. **Excluded Attorney Exclusion.** This Plan does not apply to any **Claim** against any **Covered Party**:
   a. Arising from or relating to any act, error, or omission of any **Excluded Attorney** in any capacity or context, whether or not the **Covered Party** personally participated in any such act, error, or omission or is vicariously liable; or
   b. Alleging liability for the failure of a **Covered Party** or any other person or entity to supervise, control, discover, prevent, or mitigate any activities of or harm caused by any **Excluded Attorney**.

3. **Excluded Firm Exclusion.** This Plan does not apply to any **Claim** made against a **Covered Party**:
   a. That arises from or is related to any act, error, or omission of: (i) an **Excluded Firm**, or (ii) a past or present partner, shareholder, associate, attorney, or employee (including any **Covered Party**) of an **Excluded Firm** while employed by, a partner or shareholder of, or in any way associated with an **Excluded Firm**, in any capacity or context, and whether or not the **Covered Party** personally participated in any such act, error, or omission or is vicariously liable therefore; or
   b. Alleging liability for the failure of a **Covered Party** or any other person or entity to supervise, control, discover, prevent, or mitigate any activities of, or harm caused by, any **Excluded Firm** or any person described in subsection (a)(ii) above.

   **Excluded Firm** means a firm designated as such in the Declarations.

4. **Office Sharing Exclusion.** This Plan does not apply to any **Claim** alleging the vicarious liability of any **Covered Party** under the doctrine of apparent partnership, partnership by estoppel, or any similar theory, for the acts, errors, or omissions of any attorney, professional corporation, or other entity not listed in the Declarations with whom the **Firm** or attorney **Covered Parties** shared office space or office facilities at the time of any of the alleged acts, errors, or omissions.
SECTION VIII – EXCESS LIMIT OF COVERAGE AND DEDUCTIBLE

A. Excess Limit of Coverage

1. Regardless of the number of Covered Parties under this Excess Plan, the number of persons or organizations who sustain damage, or the number of Claims made, the PLF’s maximum aggregate Excess Limit of Coverage for indemnity and Claims Expense under this Plan will be limited to the amount shown as the Excess Limit of Coverage in the Declarations, less the Deductible listed in the Declarations, if applicable. The making of Claims against more than one Covered Party does not increase the PLF’s Excess Limit of Coverage.

2. All Excess-Related Claims are considered First Made during the Plan Year when the first such Excess-Related Claim was First Made. The single Excess Limit of Coverage in effect when the first such Excess-Related Claim was First Made will apply to all such Claims.

B. Deductible

1. The Deductible for Covered Parties under this Excess Plan who are not also covered under the PLF Primary Plan is either the maximum limit of liability for indemnity and Claims Expense under any insurance policy covering the Claim or, if there is no such policy or the insurer is either insolvent, bankrupt, or in liquidation, the amount listed in Section 5 of the Declarations.

2. The Firm is obligated to pay any Deductible not covered by insurance. The PLF’s obligation to pay any indemnity or Claims Expense as a result of a Claim for which a Deductible applies is only in excess of the applicable amount of the Deductible. The Deductible applies separately to each Claim, except for Excess-Related Claims. The Deductible amount must be paid by the Firm as Claims Expenses are incurred or a payment of indemnity is made. At the PLF’s option, it may pay such Claims Expenses or indemnity, and the Firm will be obligated to reimburse the PLF for the Deductible within ten (10) days after written demand from the PLF.

SECTION IX – DUTIES OF COVERED PARTIES

A. Timely Notice of Claims, Suits, or Circumstances

1. The Firm must, as a condition precedent to the right of protection afforded any Covered Party by this coverage, give the PLF, at the address shown in the Declarations, written notice of any Claim that is reasonably likely to involve any coverage under this Excess Plan.

2. In the event a Suit is brought against any Covered Party that is reasonably likely to involve any coverage under this Excess Plan, the Firm must immediately notify and deliver to the PLF, at the address shown in the Declarations, every demand, notice, summons, or other process received by the Covered Party or the Covered Party’s representatives.

3. If, during the Coverage Period, any Covered Party becomes aware of facts or circumstances that reasonably could be expected to be the basis of a Claim for which coverage may be provided under this Excess Plan, the Firm must give written notice to the PLF as soon as practicable during the Coverage Period of: the specific act, error, or omission; the injury or damage that has resulted or may result; and the circumstances by which the Covered Party first became aware of such act, error, or omission.

4. If the PLF opens a suspense or claim file involving a Claim or potential Claim that otherwise would require notice from the Covered Party under subsections 1 through 3 above, the Covered Party’s obligations under those subsections will be considered satisfied for that Claim or potential Claim.
B. Other Duties of Cooperation

As a condition of coverage under this Excess Plan, every **Covered Party** must satisfy the duties of cooperation as set forth in Section VIII B through E of the PLF Primary Plan. These conditions are incorporated in this Plan by reference, and have the same force and effect as if fully set forth in this Plan.

C. Duty of Full Disclosure in Application

A copy of the Application the **Firm** submitted to the PLF in seeking coverage under this Excess Plan is attached to and shall be deemed a part of this Excess Plan. All statements and descriptions in the Application are deemed to be representations to the PLF upon which it has relied in agreeing to provide the **Firm** with coverage under this Excess Plan. Any misrepresentations, omissions, concealments of fact, or incorrect statements in the Application will negate coverage and prevent recovery under this Excess Plan if the misrepresentations, omissions, concealments of fact, or incorrect statements:

1. Are contained in the Application;
2. Are material and have been relied upon by the PLF; and
3. Are either: (a) fraudulent; or (b) material either to the acceptance of the risk or to the hazard assumed by the PLF.

Without limiting the foregoing, any misrepresentation, omission, concealment of fact, or incorrect statement that causes the PLF to charge a lower premium than would otherwise have been charged is material to the acceptance of the risk or to the hazard assumed by the PLF.

D. Duty to Notify the PLF of Certain Changes in Risk

The **Firm** must notify the PLF if, after the start of the **Coverage Period**, any of the following events or circumstances occur: (1) the number of **Firm** Attorneys increases by more than 100 percent; (2) there is a firm merger or split; (3) an attorney joins or leaves a branch office of the **Firm** outside Oregon; (4) a new branch office is established outside Oregon; (5) the **Firm** or a current attorney with the **Firm** enters into an “of counsel” relationship with another firm or with an attorney who was not listed as a current attorney at the start of the **Coverage Period**; or (6) the **Firm** hires an attorney who is not eligible to participate in the PLF’s Primary Coverage Plan.

Upon the occurrence of any of the foregoing events or circumstances, the **Firm’s** coverage will again be subject to underwriting, and a prorated adjustment may be made to the **Firm’s** excess assessment.

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**SECTION X – ACTIONS BETWEEN THE PLF AND COVERED PARTIES OR OTHERS**

The provisions of Section IX of the PLF Primary Plan, applicable to this **Plan Year**, are incorporated into this Plan by reference and have the same force and effect as if fully set forth in this Plan.

**SECTION XI – CANCELLATION AND TERMINATION**

A. Cancellation by the Firm or the PLF

The **Firm** may cancel this Excess Plan, before the expiration of the **Coverage Period**, by mailing or delivering prior written notice to the PLF stating the date when the cancellation will become effective.
The PLF may cancel this Excess Plan, before the expiration of the **Coverage Period**, for any of the following reasons:

1. Failure by the **Firm** to pay an assessment when due;
2. Material misrepresentation by any **Covered Party**;
3. Substantial breaches of contractual duties, conditions, or warranties by any **Covered Party**; or
4. Revocation, suspension, or surrender of any **Covered Party’s** license or right to practice law.

The PLF’s cancellation of this Plan, for any of the foregoing reasons, is made by mailing or delivering written notice of cancellation to the **Firm**, stating the effective date of cancellation, to occur within no less than ten (10) days after the date notice of cancellation is mailed or delivered.

The last and final day of the **Coverage Period** will be the date preceding the effective date of cancellation stated in the cancellation notice sent by the **Firm** or the PLF. Coverage will expire at 11:59 p.m. on the date preceding the specified date of cancellation. If the PLF cancels this Plan, assessments shall be computed and refunded to the **Firm** pro rata. Assessment adjustment may be made either at the time cancellation is effected or as soon as practicable thereafter. If the **Firm** cancels this Plan, the PLF will retain the assessment on a pro rata basis.

**B. Termination**

This Excess Plan terminates on the date and time shown as the end of the **Coverage Period** in the Declarations, unless canceled by the PLF or by the **Firm** in accordance with the provisions of this Plan before such date and time. There is no automatic renewal.

**SECTION XII – SUPPLEMENTAL ASSESSMENTS**

This Excess Plan is assessable. Each **Plan Year** is accounted for and assessable using reasonable accounting standards and methods of assessment. If the PLF determines in its discretion that a supplemental assessment is necessary to pay for **Claims**, **Claims Expense**, or other expenses arising from or incurred during either this **Plan Year** or a previous **Plan Year**, the **Firm** agrees to pay its supplemental assessment to the PLF within thirty (30) days of request. The **Firm** further agrees that liability for such supplemental assessments shall be joint and several among the **Firm** and the partners, shareholders, and professional corporations listed as Firm Attorneys in the Declarations.

The PLF is authorized to make additional assessments for this **Plan Year** until all its liability for this **Plan Year** is terminated, whether or not any **Covered Party** maintains coverage under an Excess Plan issued by the PLF at the time assessments are imposed.

**SECTION XIII – RELATION OF THE PLF’S COVERAGE TO INSURANCE COVERAGE OR OTHER COVERAGE**

If any **Covered Party** has valid and collectible insurance coverage or other obligation to indemnify, including but not limited to self-insured retentions, deductibles, or self-insurance, that also applies to any loss or **Claim** covered by this Excess Plan, the PLF will not be liable under this Excess Plan until the limits of the **Covered Party’s** insurance or other obligation to indemnify, including any applicable deductible, have been exhausted, unless such insurance or other obligation to indemnify is written only as specific excess coverage over the **Excess Limit of Coverage** of this Excess Plan.
SECTION XIV – WAIVER AND ESTOPPEL

The provisions of Section XII of the PLF Primary Plan, applicable to this Plan Year are incorporated by reference and have the same force and effect as if fully set forth in this Plan.

SECTION XV – EXTENDED REPORTING COVERAGE

After twenty-four (24) months of continuous excess coverage with the PLF, upon termination or cancellation of this Excess Plan by either the Firm or the PLF, the Firm may be eligible to purchase an extended reporting endorsement. This endorsement extends the period within which a Claim may be First Made under this Excess Plan, but does not otherwise change the terms of this Plan. Eligibility to purchase an extended reporting endorsement, the amount of the additional assessment for such coverage and the period during which Claims may be First Made under the endorsement are determined by the PLF’s underwriting department based on the Firm’s claims experience and other underwriting factors.

SECTION XVI – ASSIGNMENT

Any interest of any Covered Party under this Plan is not assignable. Any such assignment or attempted assignment, without the express written consent of the PLF, voids any coverage under this Plan.
APPENDIX A – LIST AND INDEX OF DEFINED TERMS

1. **Applicable Underlying Limit** means the aggregate total of: (1) the amount of coverage afforded by the PLF Plans issued to all persons qualifying as **Covered Parties** under the terms of this Plan; plus (2) the amount of any other coverage available to any **Covered Party** with respect to the **Claim** for which coverage is sought. (Excess Plan, p. 1)

2. **Claim** means a demand for **Damages**, or written notice to a **Covered Party** of an intent to hold a **Covered Party** liable as a result of a **Covered Activity**, if such notice might reasonably be expected to result in an assertion of a right to **Damages**. (Primary Plan, Section I A, p. 1)

3. **Claims Expense** has the meaning set forth in Section I B 3 of the Primary Plan. (Primary Plan, p. 2)

4. **Coverage Period** means the coverage period shown in the Declarations under the heading “Coverage Period.” (Excess Plan, p. 1)

5. **Covered Activity** means the meaning set forth in Section III of this Plan. (Excess Plan, p. 4)

6. **Covered Party** means any person or **Law Entity** qualifying as such under Section II of this Plan. (Excess Plan, p. 3)

7. **Damages** means monetary compensation a **Covered Party** must pay for harm or loss and does not include:
   a. Fines; penalties, statutorily enhanced damages, or enhanced prevailing fees;
   b. Punitive or exemplary damages;
   c. The return, forfeiture, disgorgement, restitution, reduction, or offset of any fees, costs, expenses or disbursements paid to, charged by, or owed to any **Covered Party** or to any **Law Entity** with which any **Covered Party** was associated at the time any such fees, costs, expenses or disbursements were paid, charged, or incurred, including but not limited to fees, costs, expenses or disbursements alleged to be excessive, not earned, unnecessary, ill-advised, or caused, in whole or in part, by any alleged negligent advice;
   d. Rescission, injunctions, accountings, restitution, equitable relief;
   e. Any personal profit or advantage to a **Covered Party**;
   f. Any award of attorney fees, costs, or interest arising from any claim referenced in (a) through (d) above, or from any excluded claim. (Primary Plan, Section I A, p. 1)

8. **Excess Limit of Coverage** has the meaning set forth in Section VIII of this Plan. (Excess Plan, p. 1 and p. 7)

9. **Excess-Related** has the meaning set forth in Section V of this Plan. (Excess Plan, p. 5)

10. **Excluded Attorney** means an attorney who is designated as such in the Declarations. (Excess Plan, Section II A, p. 3)

11. **Excluded Firm** means a firm designated as such in the Declarations. (Excess Plan, Section VII, p. 6)

12. **Firm** means any **Law Entity** designated in Section 1 or 11 of the Declarations. (Excess Plan, p. 3)

13. **First Made** has the meaning set forth in Section IV of this Plan. (Excess Plan, p. 4)

14. **Law Entity** means a professional corporation, partnership, limited liability partnership, limited liability company or sole proprietorship that engages in the **Private Practice** of law in Oregon. (Primary Plan, Section II B, p. 4)

15. **Legally Obligated** has the meaning set forth in Section I A of the Primary Plan. (Primary Plan, p. 1)

16. **Non Attorney** employee includes employees who are not attorneys, as well as employees who have a law degree, but are not engaged in the practice of law in Oregon, or any other state. (Primary Plan, Section III A, p. 4)

17. **Ownership Interest** means that any **Covered Party**, those controlled by any **Covered Party**, the spouse, parent, stepparent, child, stepchild, sibling or any member of any **Covered Party’s** household, or those with whom any **Covered Party** is regularly engaged in the practice of law collectively owns more than 10% of the business enterprise or owned more than 10% of the business enterprise at the time of the alleged acts, errors or omissions on which the **Claim** is based. (Excess Plan, Section VII 1, p. 6)

18. **Plan Year** means the period of January 1 through December 31 of the calendar year for which this Excess Plan was issued. (Excess Plan, p. 1)

19. **Private Practice** has the meaning set forth in Section II A of the Primary Plan. (Primary Plan, p. 3)

20. **Professional Legal Services** has the meaning set forth under Section III B of the Primary Plan. (Primary Plan, p. 4)

21. **Special Capacity Relationship** has the meaning set forth in Section III C of the Primary Plan. (Primary Plan, p. 5)

22. **Special Capacity Services** has the meaning set forth in Section III C of the Primary Plan. (Primary Plan, p. 5)

23. **Suit** means a civil lawsuit. **Suit** also includes an arbitration or alternative dispute resolution proceeding, but only if the PLF expressly consents to it. (Primary Plan, Section I B, p. 2)
For the purpose of assisting a **Covered Party** or Court in interpreting the PLF’s intent as to the meaning of certain Excess Plan provisions, the PLF provides the following illustrative examples, not intended to be exhaustive regarding Section I E 4 and Section V – **Excess-Related Claims**:

### 1. Section I E 4:

#### a. Law firm A maintains excess malpractice coverage with Carrier X in Year 1. The firm knows of a potential malpractice claim in September of that year. Nevertheless, it does not report the matter to Carrier X in Year 1. Law firm A obtains excess coverage from the PLF in Year 2, and the potential claim is actually asserted in April of Year 2. Whether or not the PLF has imposed a Retroactive Date for the firm’s Year 2 coverage, there is no coverage for the claim under the firm’s Year 2 PLF Excess Plan. This is true whether or not Carrier X provides coverage for the claim.

#### b. Attorneys A, B, and C practice in a partnership. In Year 1, Attorney C knows of a potential claim arising from his activities but does not tell the PLF or Attorneys A or B. Attorney A completes a Year 2 PLF excess program application on behalf of the firm but does not reveal the potential claim because it is unknown to her. Attorney A does not circulate the application to attorneys B and C before submitting it to the PLF. The PLF issues an Excess Plan to the firm for Year 2, and the potential claim known to Attorney C in Year 1 is actually made against Attorneys A, B, and C and the firm in June of Year 2. Because the potential claim was known to a **Covered Party** (i.e., Attorney C) prior to the beginning of the **Coverage Period**, and because the firm did not circulate its application among the Firm Attorneys and Current Non-Oregon Attorneys before submitting it to the PLF, the claim is not within the Coverage Grant. There is no coverage under the Year 2 Excess Plan for Attorneys A, B, or C or for the firm even though Attorneys A and B did not know of the potential claim in Year 1.

#### c. Same facts as prior example, except that Attorney A did circulate the application to Attorneys B and C before submitting it to the PLF. Section I E 4 will not be applied to deny coverage for the claim as to Attorneys A and B and the Firm. However, there will be no coverage for Attorney C because the claim falls outside the coverage grant under the terms of Section I E 4, and because Attorney C made a material misrepresentation to the PLF in the application.

### 2. Section V – Excess-Related Claims:

#### a. Related Under the PLF Primary Plan vs. Excess-Related: Firm G, and one of its members, Attorney A, are sued by a claimant in 2014. The **Claim** is covered under Attorney A’s 2014 PLF Primary Plan. Claimant amends the Complaint in 2015 and, for the first time, asserts the same **Claim** also against Firm H and one of its members, Attorney B, also covered under the PLF Primary Plan. Under the terms of the PLF Primary Plan, the firms and attorneys all share a single primary Limit of Coverage under the 2014 PLF Primary Plan. This is because the **Claims** are **Related**, for primary purposes, and the earliest **Related Claim** was made in 2014.

Firm H purchased PLF Excess Coverage in 2015 but was previously covered for excess liability in 2014 by Carrier X. Neither Firm H nor Attorney B were aware of the potential **Claim** in 2014, and therefore did not give notice of a potential **Claim** against Attorney B or Firm H to the PLF or Carrier X until 2015. Carrier X denies coverage for the claim because Firm H did not give notice of the claim to Carrier X in 2014 and
Firm H did not purchase tail coverage from Carrier X. Under this scenario, any PLF excess coverage would be under the 2015 PLF Excess Plan because no Claim was made against the Covered Parties until 2015. (If, however, Firm G and Attorney B did have a basis to believe that the act, error, omission, or breach of duty to which the Claim relates was a breach of the standard of care or may result in a Claim before the PLF Excess Plan was issued, there would not be coverage for the Claim under the 2015 PLF Excess Plan. Also, if they had previously given notice to Carrier X or purchased applicable tail coverage, there would not be coverage under the PLF 2015 Excess Plan, because other insurance would apply.)

b. Secondary or Dependent Liability – Firm A has Excess coverage with the PLF between 2013 and 2015. Attorney X, while an associate in the Firm A, commits malpractice in 2012 and then leaves to work with another firm in 2014. He is listed as a Former Attorney in the Declarations of the PLF Excess Plan. Claims are alleged only against Attorney A in 2014, and in 2015, a lawsuit is filed also alleging Claims against various attorneys who are partners in Firm A and the Firm itself based on vicarious liability for Attorney X's malpractice. The Claims are Excess-Related and, therefore, were First Made in 2014.

c. Same Transaction, Occurrence, or Series of Transactions or Occurrences – Attorney A, a partner in a Firm with PLF excess coverage between 2007 and the present, writes a tax opinion in 2008 for an investment offering. Attorneys B and C, with a different law firm, then assemble the offering circular in 2007. In 2010, Investors 1 and 2 bring Claims against all three attorneys relating to the offering. In 2011, Investor 3 also brings a Claim against all three attorneys. Under the PLF Primary Plan, Claims against all attorneys and firms, by all three investors, are Related, and all attorneys and firms share one Primary Limit of Coverage, applicable to all three claims. For the purpose of Attorney A's PLF Excess Plan, however, the Claims against B and C are not Excess-Related. Therefore, the Claims against Attorney A are First Made in 2010, and Attorney A has a separate 2010 Excess Limit that applies to all three investor Claims.

d. Actual Pattern or Practice – Attorneys A, B, and C, who are all members of a Firm covered under the PLF Excess Plan for the past twelve (12) years, represent a large number of asbestos clients over several years, using a firm-wide formula for evaluating large numbers of cases with minimum effort. They are sued by various clients in 2014 for improper evaluation and by other clients making similar allegations in 2015. Plaintiffs do not allege a common scheme or plan, but because the Firm in fact operated a firm-wide formula for handling the cases, all claims are Excess-Related, First Made in 2014, and subject to the Limit of the 2014 Excess Plan.

e. Successive or Collective Errors – Attorney C, an associate at a Firm covered under the PLF Excess Plan during all relevant periods, represents a group of clients at trial and commits certain errors. Attorney D, a partner at the Firm, undertakes the appeal but fails to file the notice of appeal on time. Attorney E is hired by clients to sue Attorneys C and D for malpractice but misses the statute of limitations. Clients sue all three attorneys. Under the PLF Primary Plan, all three Claims are Related and share a single primary limit. Only the Claims against Attorneys C and D, however, are Excess-Related.

f. Class Action or Purported Class Action – Attorneys A, B, and C, all at a Firm covered under the Excess Plan during the relevant periods, represent a large banking institution. They are sued by the bank's customers in a class action lawsuit for their part in advising the bank on allegedly improper banking practices. All the class action Claims are Excess-Related and subject to the Excess Limit that was in place at the time the class action Claim was First Made.
OREGON STATE BAR  
Board of Governors

Meeting Date: November 23, 2019  
Memo Date: November 12, 2019  
From: Legal Services Program Committee  
Re: Disbursement of Cy Pres Funds

Action Recommended

The Legal Services Program Committee (LSP Committee) recommends approval of the Legal Aid's Strategic Planning Committee's recommendation regarding disbursement of cy pres funds.

Background

In 2015 the Oregon legislature passed a cy pres bill, requiring that 50% of residual class action funds be used to support legal aid. These unclaimed funds go to the Oregon State Bar Legal Services Program for legal aid. The other 50% of unclaimed funds will go to organizations directly related to the case at hand or an organization beneficial to the interests of those who filed the lawsuit.

Because of a large class action settlement that took place this past July, legal aid received a large cy pres award. Through this settlement, legal aid received $18,060,847 in July 2019, will receive $18,557,611 in July 2020 and will receive a final disbursement in the approximate amount of $24,000,000 in July 2021. The final distribution is the estimated result of class members who failed to cash their check or could not be found. The funds received by the OSB's Legal Services Program have been deposited in the bar's LGIP account currently earning interest at the rate of 2.6%. There are three legal aid programs that will be the recipient of these funds. Two organizations provide services statewide. They are Legal Aid Services of Oregon (LASO) and Oregon Law Center (OLC). The third organization provides service in Jackson County only and is called the Center for Nonprofit Legal Services (CNPLS).

Pursuant to ORS 9.572, the Oregon State Bar adopted the Oregon State Bar Legal Services Program Standards and Guidelines in May 29, 1998. The Standards require that Oregon's three legal aid providers be part of an integrated delivery system for civil legal services. The Standards also require that the providers use the funds appropriated to the Legal Services Program to provide relatively equal levels of high quality client representation throughout the state.

One of the structures that the three legal aid providers use to cooperate, and to provide relatively equal access for clients statewide, is the strategic planning process. In 2019 the legal aid programs convened a strategic planning process, similar to the strategic planning processes that led to strategic plans adopted in 2002, 2007, 2013 and 2016. The purpose of this planning process was to guide the programs in providing efficient and effective


services in a fiscally responsible and sustainable manner in future years in light of the expectation of increased revenue and make a recommendation for the disbursement of approximately $60 million in cy pres funds that the bar’s Legal Services Program will receive for legal aid.

The Strategic Planning Committee (Committee) included representatives from statewide leadership, major funding sources including the Director of the OSB Legal Service Program and a member of the LSP Committee, and the three legal aid programs. The 2019 Statewide Legal aid Strategic Plan (attached), which was approved by the boards of the three legal aid providers, sets out the Committee’s recommendations for providing efficient and effective services in the future. This memo sets out the Committee’s recommendation for disbursement of the cy pres funds to the Board of Governors (BOG). The legal aid providers are not asking the BOG to approve the 2019 Statewide Legal Aid Strategic Plan but only the disbursement of the funds. The 2019 Statewide Legal Aid Strategic Plan is attached to assist the BOG in understanding the planning process conducted by legal aid and the Committee in setting service delivery priorities for the future.

Information and Data Gathered and Considered by the Committee

The Committee met on May 6, 2019 (by phone), June 1, 2019 (in person), June 24, 2019 (by phone), July 22, 2019 (by phone), August 17, 2019 (in person), September 9, 2019 (by phone and video) and September 19, 2019 (by phone). The Committee gathered and reviewed extensive data about the low-income population in Oregon and the services currently provided by the legal aid programs. It also reviewed extensive input from staff about the strengths and weaknesses of the current legal aid delivery system and priorities for use of new and existing resources.

The Committee also reviewed and discussed approximately 20 different investment and spending scenarios for the cy pres funds. The scenarios were prepared by Keith Palevsky, Chief Financial Officer of the Oregon State Bar. Mr. Palevsky participated in the July 22 and September 9 Committee meetings. He provided information to the Committee about the various investment and spending options and about the assumptions underlying the scenarios, such as the likely rate of return on the investment and the effect of an economic downturn.

All of the scenarios showed the dollar amount available to be spent each year and the total amount of funds remaining after a specified period of years. Some scenarios assumed spending a certain percentage of the funds each year, such as 4%, 5%, 7% or 10%. Some assumed spending a certain dollar amount each year. Some assumed an endowment with a spend rate that maintained a stable endowment corpus. Some assumed a lower spend rate in early years and a higher spend rate in later years. Some assumed a higher spend rate in early years and a lower spend rate in later years.
The Committee's Spending Timeline

The Committee overwhelmingly agreed that the funds should be spent over a 15-20-year arc. The Committee also agreed that the spending plan should provide for a significant fund balance at the end of ten years to allow for a meaningful change of strategy if needed at that time. The Committee overwhelmingly recommended against creating an endowment or adopting a spending plan that left a substantial fund balance at the end of 20 years. In light of the critical need to expand current services to clients, the Committee agreed that spending the funds in a sustainable manner, rather than retaining permanent or long-term unspent funds, was in the best interests of legal aid clients.

Committee's Recommendation

The Committee reviewed possible spending priorities for the new funds, including opening one or more new legal aid offices and adding staff to existing offices, and it reviewed estimated costs for those priorities. Given the spending priorities for the new funds and spending timeline the Committee focused on a scenario that spends the funds at a rate of $4 million per year adjusted for inflation. The Committee wanted to both maximize the beneficial impact of the funds and also spend them in a sustainable way over a period of time. $4 million is an amount that allows legal aid to strengthen and expand services significantly without over extending. A higher amount would cause legal aid to expand in ways that would likely not be sustainable. The spending plan increases the actual dollar amount spent each year to adjust for inflation so that the purchasing power of the $4 million disbursement remains constant over time.

The Committee recommends that up to $4 million be distributed to the providers each year with an annual adjustment for inflation. Because legal aid’s projected annual revenue and expenses may fluctuate it is further recommended that the legal aid providers request a more precise amount to be distributed annually with a recommendation regarding a percent allocation between each provider.

A spreadsheet showing the amount to be spent each year, the remaining balance, and assumptions about inflation rate and rate of investment return is attached to this report. The Committee agreed that this scenario meets the goals of spending the money in a fiscally responsible and sustainable manner that enhances services over the long-term. It also meets the Committee’s identified goals of a 15-20 year spending arc and sufficient funds to adjust strategy at the 10-year mark.

The LSP Committee met on September 20 and November 5 to review the Committee’s 2019 Statewide Legal Aid Strategic Plan and disbursement recommendation. The LSP Committee recommends that the BOG approve the Committee’s proposed recommendation concerning disbursement of the cy pres funds as outlined above.
2019 STATEWIDE LEGAL AID STRATEGIC PLAN
Adopted by LASO and OLC 10/19/2019

Strategic Planning Advisory Committee

The members of the Strategic Planning Advisory Committee were Amy Edwards, President of the Oregon Law Center (OLC) Board and Chair of the Planning Committee; Judith Baker, Executive Director, Oregon State Bar Legal Services Program and Oregon Law Foundation; Wayne Belmont, Legal Aid Services of Oregon (LASO) and OLC Board Member; Maya Crawford Peacock, Executive Director, Campaign for Equal Justice; Joseph Fichter, Staff Attorney, Center for Nonprofit Legal Services (CNPLS); Monica Goracke, Executive Director, OLC; Martina Gordon, Board Member of LASO and OLC; Misha Isaak, General Counsel to Governor Kate Brown; Debra Lee, Executive Director, CNPLS; Michael Mason, President of LASO Board; Janice Morgan, Executive Director, LASO; Justice Adrienne Nelson, Oregon Supreme Court; Paul Pavlich, Board Member of CNPLS; Hon. Brett Pruess, Coos County Circuit Court; Valentin Sanchez, Community Educator/Paralegal, OLC; Hon. Kamala Shugar, Lane County Circuit Court and Member of the OSB Legal Services Program Committee; and Angelica Vega, Regional Director, Salem Regional Office of LASO.

Background

Pursuant to ORS 9.572, the Oregon State Bar adopted the Oregon State Bar Legal Services Program Standards and Guidelines on May 29, 1988, with periodic revisions. The Standards require that Oregon’s three legal aid providers be part of an integrated delivery system for civil legal services that incorporates the Mission, Values, and Core Capacities set forth in the OSB Civil Legal Services Task Force Final Report. They also require that the providers use state funds appropriated to the Legal Services Program to provide relatively equal levels of high quality client representation throughout the state. (OSB Standard III A.) The Standards also incorporate the ABA Standards for the Provision of Civil Legal Aid (August 2006). (OSB Standard III F.) The OSB Standards also require that the legal aid providers create structures designed to enhance cooperation among themselves to improve services and provide relatively equal access statewide. (OSB Standard IV A.) The Oregon Law Foundation and the Lawyers’ Campaign for Equal Justice also use the OSB Standards.

One of the structures that the three legal aid providers use to cooperate, and to provide relatively equal access for clients statewide, is the strategic planning process. The programs work together to gather information and make recommendations about how to maintain and improve client services. (OSB Standard IV A.) The planning process applies the OSB Standards and Guidelines, including the Mission, Values and Core Capacities, to establish a strategic plan to guide program services over the next several years. Similar strategic plans were adopted in 1999, 2002, 2007, 2013 and 2016.

The LASO and OLC Boards of Directors discussed strategic planning at meetings held on March 9, 2019. The Boards voted to authorize their Executive Committees to convene the current planning process to set goals for efficiency and effectiveness and use of expected new
resources in the coming years. CNPLS later committed to joining the planning process. CNPLS also participated in the 2002, 2007, 2013 and 2016 planning process, as well as the OSB Civil Legal Services Task Force.

**Charge and Criteria Used to Make Recommendations**

The Strategic Planning Committee was charged with drafting a proposed long-term strategic plan similar to the strategic plans adopted in 2002, 2007, 2013 and 2016 to guide the programs in providing efficient and effective services in future years in light of the expectation of increased revenue. The Committee was also charged with drafting recommendations for the Oregon State Bar for disbursement of approximately $33.6\(^1\) million in cy pres funds that the Bar is expected to receive for legal aid. The Committee was charged with proposing a plan that utilizes any new funds received in a fiscally responsible and sustainable manner that enhances services over the long-term.

In doing so, the Strategic Planning Committee was instructed to apply the criteria set out in the Oregon State Bar Standards and Guidelines, adopted pursuant to ORS 9.572, including the Mission, Equal Justice Values, and Core Capacities that are incorporated into the Guidelines, to make decisions. The Committee was also instructed to gather the information and seek input necessary to apply these criteria. These criteria are intended to: create and maintain an integrated statewide service delivery system; provide relatively equal levels of high quality client representation throughout the state; and address the core capacities identified in the OSB Civil Legal Services Report. (OSB Standard III A.)

The Committee began its work by reviewing the OSB Standards and Guidelines; the history of and recommendations from prior strategic plans; maps showing locations of offices and poverty populations in Oregon; and the 2019 Civil Legal Needs Study of the legal issues faced by low-income Oregonians. It also reviewed the 2019 Planning Data spreadsheet that includes measurable information about the different service areas and offices statewide including poverty population, square miles in the service area and staffing levels. The chart includes information from all offices and programs. Poverty population data in the chart are taken from the U.S. Census Bureau’s 2013-2017 American Community Survey (ACS). ACS estimated that there were 777,773 people in Oregon who were income eligible for legal aid (income at or below 125% of the national poverty guidelines). The Committee also reviewed extensive ACS data about the demographics of the poverty population in each county in Oregon.

**Input from Staff**

The legal aid programs asked all staff to respond to an anonymous online survey with five broad questions about achieving legal aid’s mission; the strengths and weaknesses in the current legal services delivery system; and priorities for allocating new revenue. Regional directors,

\(^{1}\) The Charge to the Committee uses the figure $33.6 million. The actual amount currently anticipated is more than $36 million by July 2020. The Committee has learned that there will be an additional distribution after July 2020, which it has estimated to be $24 million.
managing attorneys, and supervising attorneys from OLC and LASO also provided input for the process. At a May 30, 2019 meeting, they discussed ways that legal aid can be more efficient and effective and discussed priorities for use of any new resources.

The Committee reviewed the responses to the all-staff survey at its June 1 meeting and identified areas for further inquiry, including issues relating to staffing levels by job category; staff training; current office locations and pairings; community partners and other resources in rural areas; and diversity, equity and inclusion issues. During the month of June, the legal aid Executive Directors, accompanied at some meetings by Board members on the Planning Committee, met with staff of all of the legal aid offices in the state to take in-person input from staff, including input on the topics identified by the Committee for further inquiry.

Staff were invited to provide comments on a draft of this plan before the draft was presented to the Committee and the Committee was provided with copies of all of their comments.

**Committee Deliberations**

The Strategic Planning Committee met on May 6, 2019 (by phone), June 1, 2019 (in person), June 24, 2019 (by phone), July 22 (by phone), August 17 (in person), September 9 (by phone) and September 23 (by phone). The Committee began those meetings by reviewing its charge and goals. It also discussed the input from staff and the information and data described above.

The OSB Standards and Guidelines instruct that a low income person in Oregon should have relatively equal access to civil legal services regardless of location or status. (OSB Standard III A.) To help evaluate whether the programs are meeting this standard, the Committee used the planning data spreadsheet to compare the various service areas and programs. The Committee recognizes that some, but not all of the criteria set forth in the OSB Standards and Guidelines can be analyzed by using objective statistical information. Other criteria are more intangible or subjective, but are also important to the planning analysis. For example, the Committee also considers issues such as the additional capacity required to serve very large geographic areas and the need to maintain minimum “critical mass” staffing levels in small rural offices.

The planning data spreadsheet provides information about the poverty population eligible for service in each region of the state; the geographic size of each region; and the number of eligible people per attorney and per staff member in the service area. Poverty information in the top portion of the form is taken from the American Community Survey and provides relatively accurate information for making comparisons between service areas. The information “below the line” applies to statewide offices and programs for which it is more difficult to compare service populations. It is more challenging to get reliable numbers for the populations served by the statewide farmworker and Native American programs. Moreover, the statewide offices and programs, unlike the regional offices, are not tasked with providing a full range of services to all eligible clients in the state; they are tasked with providing only discrete services, such as policy advocacy, or with providing services only on defined legal issues, such as issues unique to a person’s status as a farmworker.
FINDINGS OF STRATEGIC PLANNING COMMITTEE

The findings are based on the broad range of information gathered by the Committee and described above in this report. After analyzing this information, the Committee made the following findings:

1. Legal aid’s mission is to achieve justice for the low-income communities of Oregon by providing a full range of the highest quality civil legal services.

2. The most recently available ACS estimate identified 777,773 people in Oregon who are eligible for legal aid. There are counties with deep poverty (25% of the population of more) throughout Oregon: in central, southern and eastern Oregon and on the coast, as well as portions of Multnomah County. There are counties with large numbers of income-eligible individuals (25,000 or more) along the I-5 corridor, from Multnomah County in the north to Jackson County in the south.

3. LASO and OLC farmworker programs represent farmworkers throughout the state in a wide array of legal issues, including employment, housing, civil rights, tax and unemployment issues. Although the programs are assigned to provide civil legal services to migrant and seasonal farmworkers on legal matters related to their status as farmworkers, their work often benefits other low-wage and immigrant workers. Experts who routinely extract data from the ACS estimates report that it is difficult to use ACS figures to estimate the number of farmworkers. For the purpose of this planning, the chart contains the number 160,429 as an estimated population of farmworkers and household members of farmworkers. This figure was taken from the "Oregon Update Migrant and Seasonal Farmworker Enumeration Profiles Study," May, 2013 by Alice C. Larson, Ph.D. While the definitions used in her study are not perfectly aligned with the client population of the farmworker programs at legal aid, this estimate is closer than any other published work that is focused on Oregon. We do not consider the estimates for statewide farmworker programs as being the equivalent of ACS estimates used to compare regional offices to each other.

4. Between 2011 and 2013, staffing at Oregon’s legal aid programs was reduced by approximately 20% due to loss of revenue. Although legal aid has seen increased staffing and revenue since the recession forced office closures and lay-offs, it remains below pre-recession levels. Some of the positions that have been added since the recession have been made possible by limited-time grants and other one-time funding.

5. The Oregon Law Foundation, OSB, the Oregon Judicial Department, the Campaign for Equal Justice and legal aid commissioned a Civil Legal Needs Study in 2018. The Study, conducted by the Portland State University Survey Research Lab, surveyed
Oregonians at or below 125% of poverty level about the frequency with which they experienced civil legal problems in the past year and the severity of the problems. The Study concluded that 75% of low-income households experienced a legal problem. The typical low-income household experienced 5.4 legal problems in the previous year. Eighty-four percent of those households did not receive legal help of any kind.

6. The legal problems faced by legal aid’s clients of color are rooted in both poverty and racism, injustices that are deeply connected but not the same. The Legal Needs Study found that low-income immigrants and individuals of color experienced more and worse injustice than white community members and approximately half of Oregonians of color experienced discrimination in the previous twelve months.

7. The Legal Needs Study also found that the most harmful legal problems experienced by low-income Oregonians were those related to immigration and to disability and aging.

8. After implementing the staffing recommendations in the last two strategic plans, legal aid has made substantial progress in providing relatively equal access to the full range of legal services for low-income clients statewide. (OSB Standard III A.) In 2013, wide variation existed in the poverty population per total staff (including attorneys and support staff) in each service area, from a low of 2,880 eligible clients per staff person to a high of 12,030 eligible clients per staff person. Currently, among the regional offices, the ratios vary from a high of 7,635 eligible clients per staff person to a low of 2,936 per staff person. (The office with the lowest ratio covers an area of 27,770 miles in Eastern Oregon.)

9. Input received from staff identified current strengths that the strategic planning process should strive to maintain. Legal aid provides high quality services to clients. (OSB Standards III A and V B.) Legal aid works closely with client communities and should continue using these close connections and needs assessments to effectively identify, understand and respond to client needs. (ABA Standard 2.1, incorporated in OSB Standards by reference.) Legal aid has highly dedicated, experienced, connected and skilled employees. (ABA Standard 6.1.) The State Support Unit provides critical litigation support and high quality training through the statewide task forces. (ABA Standard 6.3, 6.5.) Legal aid effectively uses pro bono programs to leverage resources. (OSB Standard III B 4.) Legal aid does effective outreach and education with clients and community partners. (ABA Standards 2.1, 3.6.) Legal aid works effectively to advance clients’ interests in the legislature. (ABA Standard 3.2.) The legal aid programs should continue their close coordination. Legal aid should continue to improve the amount of time spent on litigation and systemic advocacy compared to the amount of time spent on brief advice. (ABA Standard 3.1.)
10. Input received from staff and managing attorneys identified steps that legal aid can take to increase efficiency and effectiveness. The ideas included adding staff to existing regional offices. Legal aid should consider the ratio of attorneys to support staff when making staffing decisions in each office and should try to ensure that attorneys receive appropriate litigation support. It should also continue to consider the need for Spanish or other language skills when making hiring decisions. (ABA Standard 2.4.) Legal aid should consider opening new offices in the Columbia River Gorge and east Multnomah County to be closer to the low-income communities, including immigrant communities, in those areas. Legal aid should continue to provide training and support for diversity, equity and inclusion and should increase resources devoted to those efforts. (ABA Standards 2.4, 2.5.) Legal aid should review its client education materials, websites and other public communications and look for opportunities for improvement. (ABA Standard 3.6.) Legal aid should continue efforts to strengthen the paired office system (described below). Legal aid should ensure that new resources are made available for staff salary adjustments.

11. LASO and OLC set salaries through their respective collective bargaining processes, and CNPLS’s board sets salaries for its program. The strategic planning process therefore does not allocate specific amounts for salaries in the programs. However, the three programs will have additional resources available as a result of the cy pres funding and can determine appropriate salary increases through their separate processes. Efforts to sustain and strengthen existing programs are important.

12. Rural areas of Oregon, and rural legal aid offices, face particular challenges. Rural areas are under-resourced compared to urban areas. Rural legal aid offices have fewer community partners to provide services to clients. Rural clients have difficulty accessing services due to long driving distances, lack of public transportation, limited internet access and other challenges. Rural legal aid offices currently serve distant parts of their service areas by operating clinics, developing relations with and referrals from community partners, and by phone, fax and email. Legal aid should take advantage of technology that could improve access for rural clients. (ABA Standard 2.10.)

13. Another way legal aid can better serve clients is to invest more resources in communications, including legal education print materials, website content, videos and use of social media to reach clients where appropriate. (ABA Standard 3.6.) Expanding legal aid’s capacity to serve clients online would increase clients’ access to services. (ABA Standard 2.10.)

14. Because of Legal Services Corporation funding restrictions, LASO offices are unable to provide some kinds of legal services to clients. To ensure that clients have relatively equal access to the full range of services statewide, OLC and LASO operate a “paired office” system that allows clients in LASO service areas to receive certain
types of legal assistance from designated OLC offices. (OSB Standard III A.) The system would benefit from renewed attention and structure.

15. Hiring and retention, especially in smaller and more rural legal aid offices, has been more challenging in a stronger economy. To increase and diversify legal aid’s staff candidate pools, legal aid could provide some paid law clerk positions, while continuing to take advantage of existing fellowship and externship programs.

16. Spanish is the second most commonly spoken language by legal aid clients. When hiring, all offices should take into account the need for Spanish language skills. (ABA Standards 2.4, 6.1.)

17. The 2018 Civil Legal Needs Study ranked credit/debt/fraud as the most common civil legal problem experienced by low-income households. Many legal aid offices are handling some consumer cases, most often through pro bono programs, and a need for more program expertise in this area was identified through staff input into the strategic planning process. The class action settlement leading to increased funding for legal aid has also created significant funding for a new statewide organization, Oregon Consumer Justice. This organization currently has a three-person board of directors and is working to hire staff and set initial priorities. Legal aid should collaborate with Oregon Consumer Justice, given the shared interest in providing legal help on consumer issues to low-income Oregonians. Collaboration could take the form of shared training, co-counseling, outreach, and other work. Legal aid should also be mindful not to duplicate the services provided by the new organization. (OSB Standard IV A.)

18. Funding for the joint statewide foreclosure help project, provided through national settlement funds administered by the Oregon Law Foundation, will expire in mid-2020. The foreclosure help project has successfully served many low-income Oregonians facing problems related to homeownership. The foreclosure help project has also served as a model for statewide cross-organization collaboration on a specialized legal issue. At the same time, a number of independent indicators suggest that foreclosure has receded as a priority among the legal issues facing low-income Oregonians, while landlord/tenant law needs have increased. Being flexible and responsive to changing environmental circumstances is a core value of legal aid. As the 1996 OSB Civil Legal Services Task Force Final Report instructs, “the system must have the capacity to reconfigure, reallocate and redefine client needs and appropriate advocacy dictated by changing environmental, social and political dynamics.” If national or state economic trends shift, as they usually do, foreclosure could again become a higher priority for legal aid’s client community.

19. The Civil Legal Needs Study also found that low-income people with court hearings have trouble accessing the legal system. The largest barrier for participants who had
a court hearing was understanding the rules and procedures in court. More than
one in three people reported this problem. It is hard for court participants to feel a
sense of just treatment when they are struggling to simply understand what is going
on. The flood of unrepresented litigants in Oregon courts has an impact on our legal
system, in part because it includes many individuals whose incomes are higher than
legal aid’s threshold, as well as those who are income-eligible. Legal aid currently
provides critical resources for Oregonians who cannot afford to hire a lawyer,
through easy-to-understand forms; legal assistance or representation; and legal self-
help. Nevertheless, there continues to be a great unmet need for legal resources
and assistance for pro se litigants.

20. LASO, OLC, and CNPLS would benefit from a collaborative, statewide formal process
to increase the programs’ diversity, equity, and inclusion efforts. These efforts will
help legal aid serve clients better. They will promote a healthy work environment
where all employees feel safe and valued. (ABA Standards 2.4, 2.5.)

21. In the last strategic plan, legal aid committed to improving its balance between brief
advice cases and litigation and systemic advocacy. Input from staff in the current
planning process indicates that there is more need for litigation support in order to
further that goal. A paralegal dedicated to litigation support, placed in the State
Support Unit, would serve this purpose. The paralegal would oversee and help
provide regular training and support to legal support staff all over the state.

22. LASO’s Portland Regional Office (PRO) is the state’s largest legal aid office, with a
staff of 27, including 19 attorneys, two supervising attorneys and one Regional
Director. It serves a poverty population of more than 200,000. Because of the
availability of significant amounts of city and county grant funds and funding from
community partners, PRO manages substantially more grants and special projects
than other legal aid offices. Seeking and managing grants and special projects, and
maintaining and cultivating relationships with city and county officials and
community partners, are all more time-consuming at PRO than at smaller offices. As
a result, managers at PRO face challenges in performing these functions and all of
their other management and supervisory functions. Converting a staff attorney
position to a supervising attorney position would allow the office to better meet
these challenges.

23. OLC has grown from 6 offices and 43 staff in 2008, to 11 offices and 78 staff today,
with only one FTE increase in administrative support (the IT support paralegal
position added in 2018).² LASO currently has 7.25 administrative staff to support 90
employees, while OLC has only 4.75. If all of the recommendations in this plan are

² This growth occurred primarily because of transfers of offices from LASO to OLC pursuant to
strategic planning decisions and because of a merger with Lane County Legal Aid and Advocacy Center,
not because of a substantial increase in resources.
implemented, OLC will add a new office and many new positions, including new positions in the Central Office to be supervised by the Executive Director, bringing the total of her direct reports to 16. OLC needs additional administrative and supervisory support in its Central Office to ensure compliance with grant requirements, employment laws and accounting standards; to oversee program technology and pro bono programs; and to promote the provision of high-quality services by OLC offices statewide.

24. Less than 2% of legal aid staffing statewide is devoted to public affairs even though this form of legal advocacy is critical for low-income clients. Providing additional resources for public affairs activities would benefit low-income clients statewide. (ABA Standard 3.2.)

25. Staff input indicates that training and mentoring by State Support Unit attorneys has been highly valuable in helping to provide high quality services to clients, and that more opportunities to receive training and mentoring are desired. The Director of Litigation currently bears responsibility for housing law as well as leading the State Support Unit. The programs’ work in this substantive area has grown in recent years and now is almost equivalent to the amount of work done in family law. A separate position specializing in housing law should be added to the State Support Unit.

26. Rapid changes in immigration law and policy have led to a need for additional expertise at legal aid on the interplay between immigration law and other legal issues, such as public benefits.

27. Four legal aid offices currently share responsibility for serving the Columbia River Gorge. The LASO Portland Regional Office provides LSC-eligible services in Hood River, Wasco and Sherman counties and the OLC Portland office provides non-LSC eligible services. The LASO Pendleton office provides LSC-eligible services in Gilliam and Wheeler counties. As Pendleton’s paired office, the OLC Ontario office is tasked with providing LSC-ineligible services in the six counties served by LASO Pendleton. The five counties of Hood River, Wasco, Sherman, Gilliam, and Wheeler have a combined poverty population of 9,612. In addition, Morrow and Umatilla counties are currently experiencing a growth in immigrant populations, including LSC-ineligible individuals, and these counties are more difficult to access from Ontario than from the Columbia River Gorge. The OLC Portland office is also paired with the LASO Bend office, providing LSC-ineligible services to residents of Jefferson, Crook and Deschutes counties.

28. An OLC office in the Columbia River Gorge could provide a full range of services to residents of Hood River, Wasco, Sherman, Gilliam and Wheeler counties and would be better positioned than the OLC Portland office to be Bend’s paired office. This office would also be better positioned than the OLC Ontario office to pair with LASO
Pendleton to provide services to LSC-ineligible individuals in Morrow and Umatilla counties.

29. The LASO and OLC offices that serve Multnomah County are located in downtown Portland, in the western portion of the county. Half of Multnomah County’s poverty population is located in the eastern portion of the County, east of 82nd Avenue, and half is located west of 82nd Avenue. As is true in other legal aid service areas, there are wide disparities in the poverty population based on race and ethnicity in the Portland service area, and specifically there is an overrepresentation of people of color in poverty. East Multnomah County has higher concentrations of people of color in poverty than the portion of the county west of 82nd Avenue. It is well-accepted that the poverty population in this service area has been displaced by rising housing costs.

30. Prior to 2012, legal aid operated an office in Oregon City, which was closed during the recession due to severe budget cuts. Low-income residents of Clackamas County are currently served by the Portland LASO and OLC offices. Many residents of that County prefer not to travel to downtown Portland for services. The Portland legal aid offices have created options for serving clients in Clackamas County using office space at the law library, community partner offices and other arrangements. Clackamas County has a poverty population of 47,117, comparable to the poverty populations served by the Albany, Bend and Medford offices.

31. Legal aid should invest resources in training, while seeking to make training as efficient and effective as possible. (ABA Standard 6.5.) One way legal aid can do this is by consolidating trainings where possible. An annual conference for all legal aid practitioners would allow attorneys and support staff to gain needed training in topics like trauma, diversity/equity/inclusion, and new lawyers’ training, while reducing the amount of time spent in travel and away from direct client service.

32. The receipt of a large, one-time cy pres award will help legal aid to sustain and strengthen existing programs and to expand services. That award should be spent in a fiscally responsible and sustainable manner that enhances services over the long-term. (ABA Standard 1.1-3.) Drawing down the funds over the long-term will increase legal aid’s annual revenue significantly but not in an amount that allows it to fully meet the legal needs of low-income Oregonians.

33. Although Oregon’s legal aid programs have been successful in broadening their sources of revenue, and they currently have approximately eighty sources of revenue, most current sources of revenue are likely to significantly decrease during economic downturns at the very time when the number of applicants and severity of the need increase. During the last recession, legal aid lost revenue from the state’s general fund because the state faced a severe deficit. Revenue from Interest on
Lawyer Trust Accounts (IOLTA) fell from $3.6 million to $990,000 annually because the federal government cut interest rates in response to the economic downturn. Federal funding dropped by 18.6% due to federal deficit issues. Legal aid must continue to seek stable long-term funding sources. As legal aid draws down this cy pres award, the Committee recognizes that legal aid will have to devote resources in the future to new fundraising initiatives to continue to increase services and to replace this one-time source of funds.

RECOMMENDATIONS OF STRATEGIC PLANNING COMMITTEE

Considering the findings listed above, the Strategic Planning Committee discussed various ideas about how resources should be spent to improve services to clients statewide. After discussing various options and then prioritizing, the Committee formulated recommendations that fall into two general categories: those that require no change in staffing and those that require additional staffing or resources as resources become available. The recommendations are set forth below.

Enhancing Efficient and Effective Legal Services Without Significant Ongoing Costs

1. Convene a LASO/OLC work group to consider creating an online intake system or web-enabled legal assistance. (CNPLS is in the process of implementing online intake.) (ABA Standards 2.10, 4.1.)

2. Review legal aid websites, including the OregonLawHelp, OregonAdvocates, OLC and LASO websites, for content and usability and consider possible changes. (ABA Standard 3.6.)

3. Create a pilot project using video locations for intake and communication with clients living in remote areas of the state. If the project succeeds in improving client access, legal aid should expand it to other regional offices. (ABA Standards 2.10, 4.1.)

4. Improve the paired office system by requiring paired offices to hold regular joint meetings, draft written coordination plans, and have a common understanding of each office’s priorities. (OSB Standard III A.)

5. Continue to hire law clerks through fellowship and externship programs but provide some resources for paid law clerk positions when necessary so that broader groups of students can work for legal aid. (ABA Standard 6.1.)

6. Ensure that all offices consider the need for Spanish language skills when making hiring decisions. (ABA Standards 2.4, 6.1.)
7. Collaborate with Oregon Consumer Justice to increase expertise and capacity to serve low-income Oregonians with consumer legal needs. (OSB Standard IV A.)

8. After expiration of the statewide foreclosure help project funding in mid-2020, reduce the resources put into foreclosure work, but at the same time maintain some expertise in foreclosure in the programs for the time being. Offices should continue to prioritize substantive legal work based on local office priority-setting. (OSB Standard III D 1.)

9. Continue to collaborate with the Oregon Judicial Department, the Oregon State Bar and other stakeholders in addressing the need for assistance to pro se litigants, recognizing that legal aid should focus on serving income-eligible pro se litigants. (OSB Standard IV A.)

Enhancing Efficient and Effective Legal Services with Additional Staff or Resources

The Committee recommends that legal aid make the following staffing and resource additions in the following order of priority. The Committee recognizes that this is a long-term plan and that not all positions and offices will be added immediately. Legal aid should regularly assess its funding outlook and its other spending priorities, such as personnel costs, in deciding whether and when to increase staffing.

10. Engage a consultant to focus on diversity, equity and inclusion work. The consultant should assist legal aid in providing appropriate services to clients of all backgrounds and in recruiting and retaining a diverse staff. Legal aid should also allocate funds for ongoing costs associated with equity work, including costs for a staff position if recommended by the consultant. (ABA Standards 2.4, 2.5.)

11. Add a litigation support paralegal to the State Support Unit (SSU) to provide direct litigation support for attorneys statewide and to oversee training for support staff.

12. Add a statewide position to focus on communications, including legal education print materials, website content, videos and use of social media to reach clients where appropriate. The position should collaborate with the Oregon Judicial Department and the Oregon State Bar on client education materials. The position may also assist with funding efforts through strategic communications. The position may start as part-time and/or may start as an outside consultant. It will be housed at OLC and will work on behalf of the programs statewide.

13. Add a position to the Hillsboro office. (All regional office positions and proposed new offices are added in accordance with OSB Standard III A, “to provide relatively equal levels of high quality client representation throughout the state of Oregon.”)

14. Add a position to the Albany office.
15. Convert an existing staff attorney position at LASO’s Portland Regional Office to a supervising attorney position.

16. Add 1-2 management positions to OLC Central to assist with general program oversight and supervision, operations and human resources.

17. Add a legislative advocate to the OLC public affairs/legislative unit to provide policy advocacy for low-income clients statewide. (ABA Standard 3.2.)

18. Add a position to the SSU to focus on housing.

19. Increase the CNPLS position from part-time to full-time that currently focuses on immigration law in order to help offices statewide with immigration and immigration status issues. When doing priority-setting, all offices should consider whether to devote additional resources to immigration-related work.

20. Add a second position to the Hillsboro office.3

21. Add a position to one of the two Salem offices.

22. Open an OLC Office in the Gorge – Add 3 attorneys (including one who will be part of the Farmworker Program), 1 outreach worker/community educator and 1 support staff person. The office will serve Hood River, Wasco, Sherman, Gilliam and Wheeler counties. It will be the paired office with the LASO Bend office to serve Crook, Deschutes, and Jefferson counties, and will also pair with the LASO Pendleton office to serve Morrow and Umatilla counties.

23. Open LASO and OLC offices in east Multnomah County – Staff with existing employees. Office sizes and staffing patterns should be determined by the OLC and LASO Executive Directors in consultation with the managers of the relevant offices. The directors and managers should continue to consider whether to serve Clackamas County residents from Portland or from an office located in Clackamas County.

24. Increase resources for training by holding an all-staff conference, which can include trauma-informed training; training on client de-escalation and mental health resources; diversity, equity, and inclusion; new lawyer training; and training for support staff. (ABA Standard 6.5.)

3 These recommendations call for adding more than one position to several offices. These offices have disproportionately large poverty populations. Adding a single position to these offices decreases the poverty population ratio by only a small amount. Adding additional positions to these offices brings their ratio into better alignment with the offices that serve smaller poverty populations.
25. Add a position to the Bend office.

26. Add a position to the Klamath Falls office.

27. Add a position to the Pendleton office.  

28. Add a position to the LASO Portland office.  

29. Add a position to either the LASO or OLC farmworker program.

30. Add a position to the Roseburg office.

31. Add a position to the Lane County office.

32. Add a third position to the Hillsboro office.

33. Add a second position to the Salem service area, in either the LASO or OLC office.

34. Add a second position to the Albany office.

35. Add a second position to the LASO Portland office.

Although the positions are listed in order of statewide priority, the Committee recognizes that developments at individual programs, like grant funding opportunities, might enable a program to fill certain positions out of order. In addition to filling the positions listed above, all three programs are encouraged to continue efforts to obtain grant funding for additional positions or for projects to expand and enhance services.

Whenever an existing position becomes vacant or a new position is added, the Executive Director should work with the managing attorney of the affected office to determine the appropriate job category for the new hire. In some offices it may be appropriate to change a vacant support staff position to a staff attorney position or vice versa.

**Increasing the Amount and Sources of Revenue for Legal Aid**

Even if legal aid is able to fill the positions listed above, Oregon will still face significant barriers toward providing access to justice for all. The ABA defines minimally adequate access to justice as two legal aid lawyers for every 10,000 low-income people. In Oregon, we currently have two

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4 The planning data chart includes one attorney in Pendleton who serves exclusively CTUIR tribal members, a tiny percentage of the office’s poverty population. This ranking adjusts for that position and for the shift of two counties’ poverty population to the new Gorge office’s service area.

5 This ranking adjusts for the shift of three counties’ poverty population to the new Gorge office’s service area.
legal aid lawyers for every 14,407 low-income people. Even after filling all of the positions above, Oregon would still need 27 more lawyers to reach the minimally adequate threshold of two lawyers per 10,000 low-income people. This is a 43% increase over current staffing levels.

Oregon must recommit itself to the reasonable and necessary goal of providing “minimum access” to justice. The amount of annual revenue must increase from $16.8 million to $30 million. Sources of revenue must be broadened, and more revenue must come from sources that remain consistent during times of economic downturn, when the largest number of clients will be the most desperate for service. There must be sufficient stable revenue to provide at least two legal aid lawyers per 10,000 low-income clients in order to achieve the goal of minimum access to justice in Oregon.
### Scenario 6E

**Target:** 36,618,454

**Scenario:** Constant Rate of Spend

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<th>Year</th>
<th>Start Balance</th>
<th>Inflow</th>
<th>Earnings</th>
<th>Fees</th>
<th>Inflation</th>
<th>Spend %, (incl Infl Adj)</th>
<th>End Balance</th>
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<td>18,060,847</td>
<td>35,200,860</td>
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<tr>
<td>2020</td>
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<td>18,557,611</td>
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<td>-3.59%</td>
<td>-7.21%</td>
<td>49,580,742$</td>
</tr>
</tbody>
</table>

**Inflow:**
- **Start Balance:** 19,317,882
- **Inflow:** 18,060,847
- **Constant Rate of Spend:**
  - **Year 1:** 2019
  - **Year 2:** 2020
  - **Year 3:** 2021

**Earnings:** 7.96%

**Fees:** -1.00%

**Inflation:** -3.59%

**End Balance:** 35,200,860
November 14, 2019

Oregon State Bar Board of Governors
16037 S.W. Upper Boones Ferry Rd.
Tigard, OR 97224

Re: Client Security Fund Committee Recommendations

Dear Board of Governors:

I am the outgoing chair of the Client Security Fund Committee. As you know, this has been a challenging year for the Client Security Fund due to the large increase in claims associated with Lori Deveny. With these challenges in mind, at its November 9, 2019 meeting the CSF Committee voted to recommend that you take two actions. In making these recommendations, the CSF Committee was aware of the fact that you recently voted to raise the CSF assessment from $15 to $50 for 2020 to pay existing claims and replenish the CSF reserve.

First, the CSF Committee voted to recommend that you amend CSF Rule 4.7 to increase the claim cap from $50,000 to $100,000, as well as increase the CSF reserve from $1 million to $1.5 million. In addition, the CSF Committee voted to recommend that the claim cap increase apply only to misconduct occurring on or after January 1, 2022. Second, the CSF Committee voted to recommend that you include the enactment of a so-called “Third-Party Payee Notification” law as part of the OSB’s priorities for the 2021 session of the Oregon Legislature.

In considering whether to follow these two recommendations, I believe it is important that you have some brief background as to how the CSF Committee came to approve them. Earlier this year, several OSB members suggested the claim cap be increased in light of the nature of the Lori Deveny claims. It was also apparent to the CSF Committee that there were several claims involving a loss far greater than $50,000 in which Lori Deveny was accused of stealing settlement funds in cases where claimants suffered from significant permanent disabilities such as paralysis. In response, I convened a rules subcommittee to study the merits of increasing the claim cap and present findings to the full CSF Committee.
At its November 9, 2019 meeting, the CSF Committee discussed and largely approved the subcommittee’s conclusions. In adopting the recommendation to increase the claim cap to $100,000, the CSF Committee noted that $100,000 is the most frequently appearing cap in states with a similar number of licensed attorneys. In addition, the CSF Committee acknowledged that such an increase will largely benefit claimants who have suffered significant physical injuries. The CSF Committee also concluded that an increase in the reserve is necessary to fund an increase in the claim cap. The CSF Committee voted to recommend a delayed effective date for an increase in the claim cap for three reasons. First, a delay eliminates the possibility that some claimants would perhaps receive an arbitrary windfall solely because their claim was not approved until after the rule change. Second, a delay allows time for the CSF reserve to be replenished and grow. Third, a delay allows time for the Oregon Legislature to possibly enact a Third-Party Payee Notification law, which I will explain more fully below.

During the time the rules subcommittee was studying increasing the claim cap, I was fortunate to attend the American Bar Association’s National Forum on Client Protection and represent the Oregon State Bar Client Security Fund. During this event, I heard from attorneys from all over the country who are directly involved in client protection. I learned that approximately 15 states (including California and New York) have enacted what is known as a Third-Party Payee Notification law, and that these laws have had a direct and immediate effect on deterring attorney theft of settlement funds and reducing such claims to client protection funds. I also learned that the American Bar Association has developed model rule for third-party payee notification, a copy of which is enclosed with this letter.

After discussing the merits of Third-Party Payee Notification laws, the subcommittee concluded that it would be irresponsible to recommend an increase the CSF claim cap without also attempting to fix the problem that led to the current challenges for the CSF. The subcommittee also determined that, under Oregon law, a Third-Party Payee Notification law would have to be enacted through legislation rather than administrative rulemaking. After being presented with this information, the CSF Committee unanimously voted to recommend that you include a Third-Party Payee Notification law as part of the OSB’s legislative priorities.

I believe it would be irresponsible to not mention that two CSF Committee members voted against the recommendation to increase the claim cap. These members felt it was not the right time to raise the claim cap because they did not believe it was fiscally responsible, particularly without any cap on total payouts for claims related to any individual lawyer. During its work, the rules subcommittee studied such “aggregate” or “per lawyer” caps and learned they are put into practice in very different ways. For example, some states cut off payment of claims related to a particular lawyer when the cap is met. Other states set a time limit for all claims related to a particular lawyer to be submitted, then (if necessary) pro rate all claims at the expiration of the time limit. Either option presents challenges for claimants. A “race to the CSF” aggregate cap is seemingly arbitrary and unfair. Alternatively, setting a fixed time limit for all claims related to a particular lawyer to be submitted would both shorten the current time limits for bringing claims and delay payment of claims for those who submit claims early. Despite these difficulties, the CSF Committee felt an aggregate cap is something that should receive further study. As a result, incoming CSF Committee chair Dan Steinberg agreed to solicit volunteers for a subcommittee to
determine whether an aggregate cap is appropriate. I leave it to next year’s CSF Committee to make such a recommendation to you.

With the above information in mind, I encourage you to act on both of the CSF Committee’s recommendations. If fully implemented, these actions would secure the CSF’s future and further advance the CSF’s mission of reimbursing claimants who have lost money or property as a result of dishonest conduct by their lawyer. The CSF promotes public confidence in our profession and we as a profession should do everything we can to strengthen the CSF.

Please feel free to contact me if you have any questions.

Sincerely,

[Signature]

Douglas J. Stamm

Encl.
MODEL RULE FOR PAYEE NOTIFICATION
- PREFACE

PREFACE

The Model Rule for Payee Notification is based upon Regulation 64 of the Department of Insurance of the State of New York, promulgated in 1988 (11 NYCRR 216.9 (A) & (B)), which requires notice to the payee in all insurance settlements in excess of $5,000. The regulation does not apply to no-fault payments from a claimant's own insurer. As implemented in various jurisdictions the provision for payee notification has been triggered by a dollar amount which ranges from $1,000 to $5,000.

In payment of liability claims, it is the customary practice of insurance carriers to deliver the settlement proceeds to the lawyer of record for the claimant, usually by check made payable jointly to the claimant and the claimant's lawyer. As the Supreme Court of New Jersey observed in Matter of Conroy, 56 N.J. 279, 266 A.2d 279 (1970), the underlying purpose for the practice is to "protect and preserve the interests of all three parties to the transaction" the insured, the successful claimant and the claimant's lawyer. In the payment process, the insurance carrier does not typically notify the claimant when it makes payment to the claimant's lawyer or other representative. This gap in the process permits dishonest practices to interfere with the settlement and payment of insurance claims.

If the dishonest conduct involves the claimant's lawyer instances of lawyer misconduct can include the unauthorized settlement of the client's claim with the defendant's insurer, forgery of the claimant's signature on a stipulation of settlement or other legal document that may be required to complete the settlement, forgery of the claimant's endorsement on the settlement draft itself, or misappropriation of the claimant's share of the proceeds.

It is not uncommon for a dishonest lawyer to successfully conceal the unauthorized settlement and misappropriation for several years and to be unable to restore the claimant's funds when the loss is finally discovered. As few client protection funds are able to provide full reimbursement for all eligible losses it is important that the legal profession devise and support methods of reducing losses resulting from dishonest conduct in the practice of law, including the misappropriation of personal injury settlements.

Experience in New York and other states demonstrates that the payee notification rule has had a salutary effect on lawyer misconduct, has demonstrated an effective protection device for clients and has benefitted the state lawyers' fund for client protection. A similar statute or regulation should have the same beneficial effect in other jurisdictions.

Written Notice to Claimants of Payment of Claims in Third Party Settlements.
1 Upon the payment of [insert desired dollar amount] or more in settlement of any third-party liability claim, the insurer shall provide written notice to the claimant where: (1) the claimant is a natural person, and (2) the payment is delivered to the claimant's lawyer or other representative by draft, check or otherwise. Such notice shall be required when payment is made to a claimant by the insurer or its representative, including the insurer's lawyer.

2 This rule shall not create any cause of action for any person against the insurer, other than a government agency, based upon the insurer's failure to provide notice to a claimant as required by this rule; nor shall this rule create a defense for any party to any cause of action based upon the insurer's failure to provide such notice.

Comment
This rule is intended to serve as a deterrent to the dishonest conduct of a claimant's lawyer with respect to the receipt of third-party liability claims. The intended salutary effects of including the payee in the claim payment process should obtain whether the rule is enacted as a statute or a regulation.

The written notice requirement of Paragraph A of this rule is reasonable and appropriate to advise the claimant of settlement of its liability claim by payment to its lawyer or other representative. Written notice provides the claimant with an independent and verifiable source of information concerning the facts of the settlement. It also provides the adverse party and insurer with certainty that the settlement has been concluded in a lawful manner.

The provisions of Paragraph B are intended to make clear that an insurance carrier's failure to comply with this rule does not create a new cause of action or defense for a party. The insurer, however, may be subject to appropriate action by a state regulatory or licensing agency.
OREGON STATE BAR
Board of Governors Agenda

Meeting Date: September 28, and November 1, 2019
Memo Date: November 13, 2019
From: Mae Lee Browning, Oregon New Lawyers Division Chair
Re: ONLD Report

The ONLD Executive Committee met at The Bar Center on September 28 and held its Annual Meeting on November 1. At the September 28 meeting, the Executive Committee approved the slate of candidates for the Executive Committee, and chose the award winners for the annual ONLD awards.

At the November 1, 2019 Annual Meeting, the ONLD elected the following Officers and Executive Committee members:

Chair: Mae Lee Browning
Chair-elect: Ralph Gzik
Secretary: Sean Pank
Treasurer: Yvana Mols
Region 5 Representative: Vanessa Triplett
Region 6 Representative: Carlotta Alverson
Region 7 Representative: Autumn Mercado
At Large (11): Michelle Bartov

The Award Winners announced that evening are:

Volunteer of the Year: Zach Walsh, for his work with the Access to Justice Committee
Project of the Year: Mental Health & Substance Abuse Statewide Attorney Wellness Education Program
Advancing Diversity: Jacqueline Alarcón
Public Service Award: MariRuth Petzing, for her work in Immigration Law in the Hood River area and beyond
Member Service Award: Jennifer Nicholls, for her work in 2018 which culminated in a change in the ONLD structure and by-laws in 2019
Hon. John V. Acosta Professionalism Award: Hon. Angela Franco Lucero

The Annual Meeting was held at Coopers Hall, in Southeast Portland, with approximately 150 attendees. Highlights include Judge Acosta urging new lawyers to embrace the professionalism he finds among Oregon lawyers and Hon. Angela Franco Lucero speaking about the collegiality she finds in the Bar, and the encouraging support for diversity and inclusion she also finds there. Outgoing Chair Joel Sturm thanked the Executive Committee for their service. Incoming
Chair Mae Lee Browning welcomed the new Executive Committee, and urged attendees to get involved in ONLD events.

The Membership Committee continues to plan many events. Those held since the last BOG report or scheduled for the near future are:

- September 25 Networking@Nite at Produce Row, co-sponsored by Workers’ Comp Section Going Forward Committee, with approximately 40 attendees.
- October 9 Networking@Nite at The Hoxton, co-sponsored by the MBA YLS, with approximately 40 attendees.
OREGON STATE BAR
Board of Governors Agenda

Meeting Date: November 23, 2019
Memo Date: November 13, 2019
From: Jade Priest-Maoz, MCLE Program Manager, MCLE Committee Liaison
Re: Amendment to Statement of Purpose of MCLE Rules and Regulations and Amendment of MCLE Rule 1 to include definition of “equity”

Action Recommended

The MCLE Committee recommends the Board of Governors approve the attached proposed amended Statement of Purpose of the MCLE Rules and Regulations and amendment to MCLE Rule 1 to add the definition of equity. If approved, the amendments will be presented to the Supreme Court for final approval.

Background

The Diversity Action Plan (DAP) adopted by the OSB Board of Governors in January 2018 directs the bar to:

**Action 2.1.1** Review the applicable minimum continuing education (MCLE rules and regulations) to determine whether programs approved for access-to-justice credit support the DAP’s mission.

At its December 14, 2018 meeting, The MCLE Committee unanimously approved and voted to recommend to the BOG the amended statement of purpose proposed by the Advisory Committee on Diversity and Inclusion (ACDI). The Committee also unanimously voted to add a definition of “equity” to MCLE Rule 1 as drafted by ACDI.

Statement of Purpose

The MCLE Committee formed a subcommittee for the purpose of drafting an amended Statement of Purpose of the MCLE Rules to comply with the DAP. The subcommittee prepared a draft amended Statement of Purpose. At the October 5, 2018 MCLE Committee meeting, the committee reviewed the draft amended Statement of Purpose. The MCLE Committee voted to seek feedback from ACDI prior to voting on the proposed amendment.
Bar staff attended the ACDI meeting on October 15, 2018 and presented the MCLE Committee’s request. ACDI was willing and eager to assist. ACDI prepared a memo with their recommended amended Statement of Purpose to the MCLE Rules that was presented to the MCLE Committee on December 14, 2018. The MCLE Committee unanimously voted to recommend ACDI’s proposed amended Statement of Purpose to the Board of Governors.

The draft was not immediately presented to the BOG as a new MCLE Committee member, who was not present for the meetings during which the amendment was drafted, indicated he wanted to reopen discussion around the language of the proposed amended Statement of Purpose so he could better understand the terms as they related to the DAP. The MCLE Committee agreed to entertain further discussion if members desired at future meetings. The MCLE Committee did have some additional discussions about the language, but there was no recommendation to edit the language as previously voted on and approved by the MCLE Committee. The MCLE Committee Chair indicated this matter is now ready for review by the BOG.

Bar staff now recommends that the BOG approve the following proposed amended Statement of Purpose of the MCLE Rules for recommendation to the Supreme Court.

The purpose of minimum continuing legal education (MCLE) requirements is to further the OSB’s mission to improve the quality of legal services and increase access to justice. MCLE assists Oregon lawyers in maintaining and improving their knowledge, skills, and competence in the delivery of legal services to the public. This includes ensuring that Oregon lawyers receive education in equity in order to effectively and fully serve all Oregon communities.

**Definition of Equity**

The MCLE Committee unanimously voted to propose an amendment to MCLE Rule 1 to add the definition of equity. To that end, the MCLE Committee charged its subcommittee that worked on the amended Statement of Purpose to reconvene and work with the bar’s Diversity and Inclusion (D&I) staff and ACDI to draft a proposed definition of equity.

After much discussion among the groups, the D&I staff and ACDI proposed the following definition that both appreciates the MCLE Committee’s goal with respect to the rule amendment and preserves the meaning of equity in the DAP in order to maintain language consistency across bar rules and policies:

**Equity:** Ensuring that all individuals and groups have fair access to the same opportunities and resources by identifying and eliminating barriers that face underserved and marginalized groups, by acknowledging and understanding ingrained and systematic structural biases in society, and by committing to
address these disparities. Underserved and marginalized groups include, but are not limited to groups that are historically underrepresented based on factors of culture, disability, ethnicity, gender and gender identity or expression, geographic location, national origin, race, religion, sex, sexual orientation, veteran status, immigration status, and socioeconomic status.

At its September 27, 2019 meeting, the MCLE Committee unanimously approved this definition of Equity. Bar Staff now recommends that the BOG approve the attached proposed amendment to MCLE Rule 1 to include this definition of equity.

Conclusion

The MCLE Committee recommends that the BOG vote to approve the proposed amended Statement of Purpose of the MCLE Rules and Regulations and amendment to MCLE Rule 1 to add the definition of equity. Upon recommendation of the BOG, bar staff will present these amendments to the Supreme Court at its next public meeting on December 3, 2019.
Purpose

It is of primary importance to the members of the bar and to the public that attorneys continue their legal education after admission to the bar. Continuing legal education assists Oregon lawyers in maintaining and improving their competence and skills in meeting their obligations to the profession. These Rules establish the minimum requirements for continuing legal education for members of the Oregon State Bar.

The purpose of minimum continuing legal education (MCLE) requirements is to further the OSB’s mission to improve the quality of legal services and increase access to justice. MCLE assists Oregon lawyers in maintaining and improving their knowledge, skills, and competence in the delivery of legal services to the public. This includes ensuring that Oregon lawyers receive education in equity in order to effectively and fully serve all Oregon communities.

Rule One

Terms and Definitions

1.1 Active Member: An active member of the Oregon State Bar, as defined in Article 6 of the Bylaws of the Oregon State Bar.

1.2 Accreditation: The formal process of accreditation of activities by the MCLE Program Manager.

1.3 BOG: The Board of Governors of the Oregon State Bar.

1.4 Accredited CLE Activity: An activity that provides legal or professional education to attorneys in accordance with MCLE Rule 5.

1.5 Equity: Ensuring that all individuals and groups have fair access to the same opportunities and resources by identifying and eliminating barriers that face underserved and marginalized groups, by acknowledging and understanding ingrained and systematic structural biases in society, and by committing to address these disparities. Underserved and marginalized groups include, but are not limited to groups that are historically underrepresented based on factors of culture, disability, ethnicity, gender and gender identity or expression, geographic location, national origin, race, religion, sex, sexual orientation, veteran status, immigration status, and socioeconomic status.

1.6 Executive Director: The executive director of the Oregon State Bar.

1.7 Hour or Credit Hour: Sixty minutes of accredited group CLE activity or other CLE activity.

1.8 MCLE Committee: The Minimum Continuing Legal Education Committee appointed by the BOG to assist in the administration of these Rules.
1.89 **New Admittee:** A person is a new admittee from the date of initial admission as an active member of the Oregon State Bar through the end of his or her first reporting period.

1.910 **Regulations:** Any regulation adopted by the BOG to implement these Rules.

1.101 **Reporting Period:** The period during which an active member must satisfy the MCLE requirement.

1.112 **Sponsor:** An individual or organization providing a CLE activity.

1.123 **Supreme Court:** The Supreme Court of the State of Oregon.