

Oregon State Bar



2014 COMMITTEE
Annual Reports

2014 Committee Annual Reports

The Oregon State Bar would like to thank all Committee volunteers for their service. Committees are vital to the ability of the bar to provide both member and public services and to keep the organization responsive to the needs of its members, the courts, and the bar. To all 2014 Committee members, thank you for your time and expertise.

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Advisory Committee on Diversity & Inclusion

Activities and accomplishments:

The ACDI and the Diversity Section held a joint retreat where the respective chairs facilitated renewing focus on our missions, and engaging in team-building exercises. The ACDI and Diversity Section created a liaison position to facilitate communication between both groups. The end result was an enthusiastic and collaborative dynamic that set the tone for the upcoming year.

After reassessing the core values of the "Opportunities for Law in Oregon" or "OLIO", the ACDI expanded the OLIO 1L eligibility criteria to include people who have experienced discrimination or oppression, people who have been historically underrepresented in the bar's membership, and people who are committed to increasing access to justice.

A flagship program, OLIO, had the support and participation of the ACDI at every stage. Student participation and enthusiasm continued to grow, with ACDI members continuing to make contact with participating OLIO students throughout the academic year.

The ACDI supported the development and unveiling of the bar's Diversity Story Wall by participating in developing the content, contributing to the project financially, and attending the unveiling event.

The ACDI met with representatives from Oregon's three law schools (University of Oregon, Willamette University, and Lewis & Clark College) to discuss student needs in regards to scholarships and employment opportunities.

The ACDI revisited the bar's definition for diversity and inclusion and what it takes to increase diversity. Although there were no recommendations made to change the current definition, committee members expressed an interest in revisiting these questions periodically.

The ACDI continued to support all of the bar's diversity & inclusion programs, including individual committee members volunteering their time to evaluate program participant applications and attend program events.

Matters considered/Matters pending:

After inviting perspectives on diversity and inclusion from the ACDI membership, the ACDI

benefitted from substantive perspectives offered by various members, and could benefit by continuing to revisit the invitation for perspectives on diversity and inclusion. It is further recommended that greater participation be encouraged to gain the broadest and richest range of perspective.

Recommendations for 2015:

Joint retreat with the Diversity Section in Early 2015. The respective chairs of ACDI and Diversity Section will meet to plan a joint retreat.

Continue with established programs.

Respectfully submitted: John M. Haroldson (CH), Cynthia J. Starke (SEC), Jacqueline Lizeth Alarcon, Jessica A. Asai, David F. Bartz, Irina S. Batrakova, Deborah M. Butler, Bruce B. Harrell, H. Roland Iparraguirre, Jonathan S. Liou, Gabriel Elias Moses, J. Nicole Rose, Daniel Simon, Diane S. Sykes, Lisa M. Umscheid, Michael Y. Wu, Shari R. Gregory (OAAP), Jennifer Nicholls (NLD), Audrey T. Matsumonji (BC), Mariann Hyland (BL).

Client Security Fund Committee

Activities and accomplishments:

The Client Security Fund Committee (CSF Committee) reviews claims of clients who lawyers have misappropriated their money or other property. The CSF Committee discharges its duties by investigating claims and, in appropriate cases, recommending to the Board of Governors that a client be reimbursed for some or all of the loss. The Client Security Fund is an important part of the Oregon State Bar's public protection activities. The ability to reimburse clients even in part for losses caused by their lawyers promotes confidence in the profession and improves the public view of lawyers.

The Fund is comprised entirely of annual member assessments (increased from \$15 to \$45 per member in 2013) and earnings on invested reserves. The maximum award is \$50,000 on any one claim. Clients are expected to exhaust their remedies against the lawyer before seeking an award from the Fund. In exchange for a reimbursement from the Fund, claimants assign all of their rights against the defalcating lawyer; the OSB attempts to recoup on those assigned claims to the extent possible, but in most cases such efforts are fruitless.

Matters considered/Matters pending:

In 2014, the CSF Committee received 30 new claims involving 20 lawyers, reopened one claim denied in 2012, and completed investigations on two claims carried over from 2013.

The Committee denied 8 claims and gave final approval to 8 awards each less than \$5000, totaling \$12,293. On the Committee's recommendation, the BOG approved 3 claims totaling \$33,900. The BOG denied one claim recommended for approval by the Committee. The total of awards in 2014 (\$46,193) is the lowest since 2008 and the 5th lowest in the history of the Fund.

Recommendations for 2015:

Continue reviewing claims. Review fund reserve and make a recommendation to the Board of Governors regarding the annual assessment.

Respectfully submitted: Elaine J. Brown (CH), Lisa Almasy Miller (SEC), Ronald W. Atwood, Steven R. Bennett, Lianne M. Butterfield, William A. Davis, Mary L. Dougherty, Deanna L. Franco, J. Andrew Keeler, Mitzi M. Naucler, Mark G. Reinecke, Bradley V. Timmons, Carlos Calderon (PM), Timothy L. Williams (BC), Sylvia E. Stevens (BL).

Judicial Administration Committee

Activities and accomplishments:

Improving awareness of the important role of the judiciary in civil society remains a key goal of the Committee. The Committee continued its development of source materials available for use by judges and Bar leaders engaged in community outreach. Its efforts were enhanced early in the year by forming a working alliance with Chief Justice Balmer, Justice Brewer, Judge Franz, Judge Mertens James, and senior staff at the Oregon Judicial Department. In December, the Committee facilitated a joint letter from Chief Justice Balmer and Bar President Kranovich to all presiding judges and County bar presidents soliciting their support of the program and urging them and their colleagues to take an active role in their communities.

The Committee coordinated and facilitated the BOG's Task Force created at the request of the Legislature to comment on SB 798 – a bill to amend the procedure for alternate jurors in criminal cases. The Task Force's recommendation was approved by the BOG. Its proposed text amendments will be

before the Legislature in the 2015 General Session.

The Committee coordinated and facilitated the BOG's Task Force created at the request of the Legislature to comment on SB 799 – a bill to amend the statutory process for an attorney's withdrawal from a court case. The Task Force's recommendation was approved by the BOG. Its proposed text amendments will be before the Legislature in the 2015 General Session.

The Committee coordinated and facilitated the BOG's Task Force created at the request of the Legislature to comment on SB 812 – a bill to amend the procedure for recusing a judicial officer. The Task Force addressed significant challenges faced by rural Circuits in which there are a limited number of alternate judges available when a randomly assigned judge be recused. The Task Force did not issue a consensus report. Its work is continuing.

The Committee monitored the proposal of legislation impacting to the Judiciary in advance of the 2015 General Session of the Legislature.

Matters considered/Matters pending:

The implementation of the civic outreach and community speakers bureau will continue into 2015 with a growing emphasis on identifying and fulfilling opportunities to meet the public at large, and leaders among the business, education and civics groups in particular.

The Committee will supporting the Legislature's consideration of SB 798, SB 799, and SB 812, and other matters impacting the judiciary that arising during the 2015 General Session, such as adequate funding for the Judicial Department and indigent defense.

Respectfully submitted: Roderick A. Boutin (CH), Danielle J. Hunsaker (SEC), Bernadette House Bignon, Ryan Wesley Bounds, Morgen E. Daniels, Susan K. Lain, Hon. Terry Ann Leggert, Danielle J. O'Brien, Wendy J. Paris, Matthew Powell, Christopher Andrew Ramras, Kate Anne Wilkinson, James D. Williams, Theresa L. Wright, Carla C. Piluso (PM), R. Ray Heysell (BC), Susan Evans Grabe (BL).

Legal Ethics Committee

Activities and accomplishments:

The committee continued to work on issues related to the amendment of RPC 8.4, including recommending three LEC members to serve on the

re-drafting committee. The committee also spent significant effort in reviewing and beginning to prepare formal revisions to nearly 60 legal ethics opinions that were no longer up to date. The committee also held two special meetings to address amendments to RPC 1.2(c), resulting in a proposed amendment being submitted to the Board of Governors.

The committee continued to work on opinions regarding Medicare indemnification, the tripartite relationship, conflicts of interest in workers compensation cases, and client files.

Matters considered/Matters pending:

The committee will continue to work on preparing revisions to the legal ethics opinions that need to be formally updated. Other opinions are being revised regarding Medicare indemnification, the tripartite relationship, conflicts of interest in workers compensations cases, and client files.

Recommendations for 2015:

The committee should focus on completing the update of legal ethics opinions.

Respectfully submitted: Shannon Riordan Armstrong (CH), Robert G. Burt (SEC), Kristin Asai, Kimberly S. Boswell, Katrina L. Brown, Ankur Has Mukh Doshi, Sean K. Downey, David J. Elkanich, David M. Gordon, Laurie R. Hager, Erious Johnson Jr., Jeremy A. Markiewicz, Wilson C. Muhlheim, Alexander S. Wylie, Theresa M. Kohlhoff (BC), Helen M. Hirschbiel (BL).

Legal Services Committee

Activities and accomplishments:

The committee developed the following: LSP web content for the Oregon State Bar's website & Complaint procedures and process.

The committee reviewed and made a recommendation concerning a complaint filed by one of the provider's clients.

The committee updated the LSP Standards and Guidelines which were approved by the BOG.

The committee forwarded a recommendation to the BOG for the disbursement of both the unclaimed funds collected annually and the Strawn v Farmers class action.

Matters considered/Matters pending:

Understand how the complaint investigation process interfaces with the public records law requirements.

Consider the extent to which the bar should require evidence that lawyers have made reasonable efforts to distribute unclaimed funds in their trust account before releasing the funds.

Respectfully submitted: Josh Newton (CH), Kristin L. Bremer Moore (SEC), Timothy C. Gerking, Michael B. Hallinan, Brent H. Hall, Kamala Hollander Shugar, Andrea H. Thompson, Karen J. Lord (PM), Simon Whang (BC), Judith Baker (BL).

Minimum Continuing Legal Education Committee

Activities and accomplishments:

The Committee met on March 14, June 12, and September 19. The Committee's final meeting of 2014 will be on December 12. All meetings were held at the Oregon State Bar Center in Tigard. The specific matters the Committee considered are set out below. As a general summary, the Committee provided oversight of the revenue and expenses of the MCLE program, reviewed emerging technology in the delivery of MCLE courses, considered and recommended changes to the MCLE Rules and Regulations, and monitored developments in the area of MCLE regulation in other states.

Matters considered/Matters pending:

Emerging Delivery of CLE Programs: The Committee viewed a demonstration of an online CLE training platform being developed by West Legal Ed Center. Built on "game theory" this new platform provides for an interactive first person online game type training experience. Because this new training platform is still in development, the Committee took no action, but did make the following observations:

Unlike traditional classroom CLE programs, this new program required participants to demonstrate understanding of the topic to move to the next level and successfully pass an examination to complete the training program.

This new program would lend itself well to introductory concepts, but lacks networking and in person knowledge sharing that are part of traditional classroom CLE programs.

Because MCLE accreditation rules currently measure credits in minutes, and this new online training is based on an “at your own pace” model, the MCLE Rules and Regulations would need to be amended if the Oregon State Bar desired to award MCLE credit for this type of training.

If West develops online-training programs specific to Oregon topics, the Committee should undertake additional examination of the training’s effectiveness, review other state’s practices in awarding MCLE credit for those types of trainings, and, if warranted, make recommendations to the Board of Governors on changes to the MCLE Rules and Regulations to award credit for those types of online training programs.

Changes to the MCLE Rules and Regulations: Since its last report (December 1, 2013) the Committee took the following actions related MCLE Rules and Regulations:

Mandatory Elder Abuse: The Committee recommended changes to MCLE Rules 3.2, 3.3, 3.5, and 5.5 / MCLE Regulations 3.260, 3.300, and 6.100 to implement recent legislation relating to mandatory elder abuse reporting and training. Specifically, the Committee recommended changes to provide for child abuse and elder abuse training in alternating years.

MCLE Comity / Location of Principle Place of Business: At the request of an out of state member with a principle office in Montana, the Committee recommended MCLE Rule 3.5(a) be amended to provide that an attorney who provides a comity certificate from Washington, Idaho, or Utah need not have his or her principle place of business one of those states.

MCLE Credit for Judicial Conduct Committee: At the request of a member, the Committee recommended MCLE Rule 5.2(d) be amended to allow for MCLE Credit for service on the Judicial Conference Judicial Conduct Committee.

MCLE Compliance Report Late Fee: At the request of the MCLE Administrator, the Committee recommended MCLE Regulation 7.2(a) be amended to clarify the timing of the imposition of late fee when a member fails to file the MCLE Compliance Report on time.

MCLE Credit for Classroom Law Project (CLP): The Committee considered a request by the CLP to recommend amendments to MCLE Rule 5.2 to provide MCLE credit for members who participate in the CLP program. Although the Committee

recognized the value of the program in educating Oregon’s youth on the value of our legal system and appreciated the commitment and contributions of the OSB members who participate in the program, the Committee declined to recommend that MCLE Rule 5.2 be amended to provide MCLE credit for such activities.

Pending Matters: As of the date of this annual report (December 1, 2014), the Committee is considering a request from the Oregon Women Lawyers regarding partial waiver of MCLE sponsor fees, and a request from the Pro Bono Committee to award MCLE credit to members who provide representation through a Certified Pro Bono Provider.

Recommendations for 2015:

In the year ahead the Committee will continue to assist the MCLE administrator with the evaluation of requests for review of the administrator’s decision concerning CLE accreditation and earned credits by program providers and OSB members. The Committee will also continue to hear requests, evaluate and recommend revisions to the MCLE rules on an as-needed basis.

Respectfully submitted: Sean E. O’Day (CH), Linda J. Larkin (SEC), Allison W. Banwarth, Joel Fischer, Kristie L. Gibson, Carla L. Kelley, Christy Alisa King, Matthew Powell, Travis S. Prestwich (BC), Denise Cline (BL).

Pro Bono Committee

Activities and accomplishments:

The full committee met the second Tuesday of every other month at Miller Nash LLP.

Each subcommittee met during the months when the full committee was not scheduled to meet. The subcommittees included: The Events Subcommittee chaired by Meagan Robbins, The Publicity Subcommittee chaired by Virginia Hanks, The Law Student/New Lawyer Subcommittee chaired by Jon Strauhull, The Special Projects Subcommittee chaired by Beverly West.

Accomplishments included:

Developing and publicizing the ProBonoStudent@OSBAR.org email address with related instructions and submission form, which is being used to provide law students with access to pro bono opportunities and attorneys handling pro bono matters with needed support

Drafting, proposing, obtaining, and publicizing an amendment to the Judicial Canons that allows judges to encourage pro bono legal service

Planning and conducting a half-day Social Media Summit at Nike for legal aid organizations and the Federal Court that included presentations and work-group sessions on how best to utilize social media tools for exposure, fundraising, volunteer recruitment, coordination and communication among legal aid organizations, etc.

Developing and proposing to the MCLE committee an amendment that would allow CLE credit for pro bono work

Planning and conducting panel presentations and events at law schools to increase awareness regarding pro bono opportunities

Planning and conducting Pro Bono Celebration Week

Matters considered/Matters pending:

The committee will continue to follow up on the Social Media Summit, the proposed amendment recognizing CLE credit for pro bono service, use and awareness of the ProBonoStudent@OSBAR.org email address, presentations at law schools, and Pro Bono Celebration Week.

Recommendations for 2015:

In addition to following up on the progress and accomplishments discussed above, the committee intends to 1) explore the possibility of developing a panel and/or training in conjunction with Lewis & Clark Law School that will provide students with practical skills or training for handling pro bono cases, 2) discuss and analyze whether it would be beneficial to create a pro bono "section" of the OSB; 3) reassess subcommittees to determine whether we are fulfilling the full committee's mission and if any changes should be made.

Respectfully submitted: Justin C. Sawyer (CH), Meagan E. Robbins (SEC), Christo J. de Villiers, Beth Ariel Eiva, William P. Haberlach, Virginia M. Hanks, Samuel Heywood, Darren T. Nakata, Joshua R. Orem, Gabrielle D. Richards, Brian Schmonsees, Jonathan P. Strauhull, Sommer J. Templet, Shalini Vivek, Beverly West, Maya Crawford (ADV), Andrea H. Thompson (ADV), James C. Chaney (BC), Catherine Petrecca (BL).

Public Service Advisory Committee

Activities and accomplishments:

In 2014, the Public Service Advisory Committee (committee) continued its focus on advancing the Oregon State Bar's (Bar) public service and outreach goals.

A major focus for the committee this year was expanding the Modest Means Program (MMP) to include several new areas of law. Members of the Workers' Compensation, Disability Law and Military and Veterans sections presented the BOG with recommendations for expanding the MMP into these areas. The BOG approved expansion of the MMP and directed the committee to create a pilot program. The committee created a draft proposal and met with focus groups from the bar sections for input. The pilot launched with the new LRS program year on September 1, 2014 and will end on August 31, 2015.

The committee continued monitoring and refining the percentage fee revenue model implemented in late 2012 for the Lawyer Referral Service (LRS) program. Since percentage fee implementation, LRS has generated over \$7,000,000 in revenue for participating attorneys and the program has achieved a net profit for the first time in thirty-seven years.

The committee reviewed and updated several LRS policies and operating procedures applicable to the new MMP panels. The committee also continued its review of legal educational information made available to the public and discussed ideas for expanding the "legal links" program.

The committee voted to allow LRS panelists participating in diversion to have their eligibility to participate in LRS reinstated after they agree to diversion and complete their initial reporting in good standing.

Matters considered/Matters Pending:

The committee will continue discussing a possible trigger amount that will exempt small cases from the percentage fee remittance requirement. The committee will gather more data on revenue trends prior to suggesting alterations to the program.

Recommendations for 2015:

The committee will continue to monitor the development of the MMP expansion pilot and make recommendations thereon.

The committee will continue to monitor the LRS

percentage fee model and identify if the model needs to be altered generally or for particular practice areas. The committee will continue its oversight of LRS practices and procedures and, in particular, continue its review of LRS nondiscrimination policies.

The committee will continue its review and oversight of Bar materials and information designed to convey information about the law to the general public.

Respectfully submitted: Heidi K. Brown (CH), Jennifer A. Costa (SEC), Diane W. Buisman, Rebekah L. Dohrman, Gary Firestone, Kamron L. Graham, Anna Marie Joyce, Mark J. Lang, Debra Cohen Maryanov, Barbara Smythe, Josh Soper, James B. Horan (PM), Sheila Blackford (PLF), Joshua L. Ross (BC), Eric McClendon (BL), Kay Pulju (BL).

Quality of Life Committee

Activities and accomplishments:

The Committee visited the following law schools to present on quality of life issues:

October 1, 2014, Lewis & Clark Northwestern College of Law: Committee members Michael Reid and Kyle Dukelow staffed an informational table at the law school's Career & Professional Development "Bar Prowl" event showcasing OSB organizations. Committee members, along with Doug Querin of the OAAP, successfully interacted with many law students about attorney-related quality of life issues during the event.

October 30, 2014, University of Oregon School of Law: Kyle Dukelow moderated a newly prepared presentation on "Grit and Resilience," along with Mike Long of the OAAP and another local attorney. The program was based on Professor Angela Duckworth's theory that the more "gritty" you are, the better you will do as an attorney in the workforce.

The Willamette University networking presentation, scheduled for October 8, 2014, was unfortunately cancelled by the law school the night before the event.

Committee member Heather Decker presented the "10 Minute Fix: Stress Reduction for Attorneys" on October 10, 2014 at the ABA Young Lawyers Division Fall Conference at the Nines Hotel in Portland. After an informational discussion, Heather led participants in relaxation breathing techniques and chair yoga.

Chair Eva Marcotrigiano presented "Workout to Go: Taking your Fitness Routine on the Road" on October 11, 2014 at the ABA Young Lawyers Division Fall Conference. Along with two other attorneys, Eva educated young lawyers from across the country about fitness and demonstrated numerous exercises that can be performed almost anywhere.

On November 5, 2014, Committee member Ruben Medina served as a panelist at the Professional Liability Fund's practical skills seminar, "Learning the Ropes."

Committee member Virginia Terhaar drafted an article on quality of life issues to appear in an upcoming issue of the OAAP's publication, "InSight."

Secretary Amy Miller and Ruben Medina supplemented the Committee's website with new materials and information, and started Quality of Life Committee Facebook and Twitter accounts as a way to communicate quality of life information to members of the Oregon State Bar.

The Transitions Subcommittee sought and obtained sample work/life balance and leave policies from local employers that were published as resources on the Committee's website this year.

Finally, at each of our monthly Committee meetings, members shared progress on their own "quality of life" goals for the year.

Matters considered/Matters pending:

A list of Oregon attorneys who have undergone transitions and are willing to serve as a contact for others who are experiencing or contemplating a transition is currently being compiled.

Chair Eva Marcotrigiano is drafting an article summarizing the lengthy George Washington University Law Review paper entitled, "What Makes Lawyers Happy? Transcending the Anecdotes with Data from 6200 Lawyers" for future publication.

A CLE on the financial planning aspects of taking a sabbatical is in the planning phase, to be tentatively held in February 2015. Committee member and Financial Advisor Adina Flynn will discuss financial planning specifics, and two local attorneys who have successfully taken sabbaticals will discuss the financial aspects of their experiences.

The Committee is compiling a resource binder for future Committee chairs to use as a reference.

Committee member Anne Villella has drafted an article on compassionate listening. Currently in the revision stage, the article will potentially be posted to the Committee website and submitted for publication in 2015.

Chair Yoga, Relaxation Breathing and Meditation practices from the "10 Minute Fix" may be added to the website as individual 10 minute segments.

The Transitions Subcommittee may write an article summarizing the above referenced sample work/life balance and leave policies in place at Oregon law firms.

Recommendations for 2015:

Continue the strategic planning for the Committee's website and social media accounts to more fully utilize them to promote and share the Committee's work.

Promote participation in a technology holiday for lawyers (e.g., the National Day of Unplugging, <http://www.sabbathmanifesto.org/unplug>).

CLEs focused on personal finance issues, such as: personal finance hygiene habits, "finding your financial footing" for recent graduates, and retirement planning.

Potential CLE/article topics: the new paid sick leave in Portland; sleep hygiene issues; social networking addiction; what "quality of life" means to you.

Respectfully submitted: Eva M. Marcotrigiano (CH), Amy Saeger Miller (SEC), Cody J. Elliott, Ruben Medina, Mark S. Rauch, Michael B. Reid, Mindy S. Stannard, Anne E. Villella, Heather Wright Decker (ADV), Kyle B. Dukelow (ADV), Adina R. Flynn (ADV), Tanya R. Hanson (PLF), Virginia Terhaar (PM), Jenifer S. Billman (BC), Charles Schulz (BL).

State Lawyers Assistance Committee

Activities and accomplishments:

During 2014, the committee received approximately eleven new traditional referrals from attorneys, judges, the SPRB, and members of the public. Each referral was investigated in accordance with the OSB Bylaws and the SLAC authorizing statute, ORS 9.568. The committee continues to accept jurisdiction and to monitor remedial programs for a number of attorneys. Much of the business conducted by the committee involved confidential

discussions surrounding these cases. Those confidential discussions cannot be revealed in this report.

Additionally, the committee evaluates and monitors lawyers who are referred from Disciplinary Counsel's Office (DCO) as part of the conditional admission/reinstatement and diversion/probation process. In 2014, the Committee took on the role of monitor for six lawyers who were placed on probation, one lawyer who entered into a diversion agreement and two lawyers who were conditionally admitted to practice.

SLAC continues to utilize the assistance of former committee members and attorneys throughout the state to assist in monitoring lawyers in areas where the current members don't reside/practice, such as Ontario and Medford.

Matters considered/Matters pending:

The Board approved two amendments to the Bar's Bylaws pertaining to SLAC. One change updated the retention schedule for maintenance of SLAC records, another change gave the Board authority to appoint members, as needed, to the committee. The committee will add three additional members bringing the committee size to 15.

Recommendations for 2015:

Hold an orientation for new and returning members with a focus on lawyers experiencing cognitive impairments. During the past few years SLAC has seen a steady increase in referrals involving cognitively impaired lawyers. As a large portion of the Bar's practicing membership ages, it is expected that this trend will continue. SLAC is seeking to develop evaluation tools and an effective protocol for helping those lawyers who may be experiencing cognitive decline.

Continue to look for and implement improvements to the SLAC monitoring process such that SLAC becomes a reliable and skilled resource for monitoring agreements between impaired lawyers and DCO.

Continue to improve communication and cooperation between SLAC and OAAP.

Continue to improve communication and cooperation between SLAC and the Board of Bar Examiners.

Continue to seek creative ways to help impaired lawyers and protect the public.

Respectfully submitted: Robert (Kim) M. Lusk (CH), Kevin E. Lucey (SEC), Michael Cougar, Stephen J. Doyle, Vaden B. Francisco, Gretchen Gunn Merrill, John D. Parsons, Teri L. Plagmann Durham, Michael W. Seidel, Bryan R. Welch, Bernadette Harrington (PM), Edward B. Versteeg (PM), Douglas S. Querin (OAAP), Matthew H. Kehoe (BC), Amber Autumn Hollister (BL).

Respectfully submitted: Matthew E. Malmsheimer (CH), John Thomas Devlin (SEC), Jennifer Lee Coughlin, Oscar Garcia, Timothy J. Heinson, Charles R. Henderson, Jennifer L. Hunking, Gordon L. Osaka, Mark Allen Peterson, Jeremiah Vail Ross, Christopher B. Rounds, John A. Schwimmer, Christina Stephenson, Katharine von Ter Stegge, Kristen West McCall, James C. Chaney (BC), Linda L. Kruschke (BL).

Uniform Civil Jury Instructions Committee

Activities and accomplishments:

The Committee continued the work begun in 2013 of reviewing Instructions that had not been reviewed since 2005. The Committee reviewed a total of 208 instructions. Of those, 95 Instructions were approved "as-is," 53 instructions underwent revisions that the Committee reviewed and approved, and 6 instructions were withdrawn. There remain 53 instructions that were reviewed but that will require revision and review in 2015. A complete breakdown of those Instructions is attached, with the completed instructions indicated in blue and pink, and the instructions left for 2015 indicated in green.

In addition, the Committee undertook a review of the Employer Liability instructions (55 Series) which resulted in some minor revisions and one entirely new instruction, 55.01A – Employer Liability – Risk or Danger. The Committee also began significant revisions to the Landlord/Tenant Instructions. The Committee determined that, because claims under the OFLA are tried only to the Court, ORS 659A.885 (1)(a) & (2), jury instructions for those claims would be inappropriate and accordingly discontinued that initial effort.

Matters considered/Matters pending:

As noted above, there remain 53 instructions that require revision and review for inclusion in the Red Book and the revision process for the LL/Tenant instructions is yet to be completed. Additionally, members of the Committee discussed the need for revisions to the Disability Discrimination Instructions (59 Series).

Recommendations for 2015:

For 2015, the Committee should complete the pending work noted above and determine whether any additional areas require instructions and/or review.

Uniform Criminal Jury Instructions Committee

Activities and accomplishments:

Worked on revisions and new instructions. The ones we finalized to be included in the OSB jury instructions are set forth below. We adopted new enhancement instructions 3314 (organized criminal operations) and 3315 (permanent injury). We passed amended instructions to reflect legislative changes and/or case law. Those instructions are 2310A, 2310B, 2310C regarding Aggravated Harassment, 1900 definitions, 1613A Sexual Assault and 2716 DWS. We also amended the users' guide related to making a record regarding objections to jury instructions.

Matters considered/Matters pending:

Considered: We discussed and declined to amend the Beyond a Reasonable Doubt instruction. We had a subcommittee that worked for a year on amending the instruction and presented their proposal to the committee. Unfortunately, we could not reach a consensus to amend the most recent instruction. We also decided that an additional instruction for eyewitness testimony was unnecessary in light of Lawson.

Pending: Completion of review of enhancement factor instructions. Also, we expect to pass amendments to 1613, the sex abuse instruction reflecting the knowledge requirement, 2723 and 2726 related to the leaving the scene of an accident and where the vehicle needs to be driven and the 1001 introductory instruction related to the definition of beyond a reasonable doubt. These should be final by the end of the year.

Recommendations for 2015:

Continue to foster a positive culture and collaborative environment as the committee continues its mission to review and create jury instructions that are understandable, and up to date

with legal changes and changes in practice.

Respectfully submitted: Terry Ann Leggert (CH), Jamie Contreras (SEC), Russell S. Barnett, Stephanie J. Engelsman, Barry W. Engle, Rankin Johnson, Melanie Kebler, Harrison Latto, Amanda Nadell, Justin W. Nelson, Steven L. Price, Andrew D. Robinson, Jason Glenn Short, Paul L. Smith, Alix Wicks, Patrick Joseph Ehlers (BC), Dean P. Land (BL).

Unlawful Practice of Law Committee

Activities and accomplishments:

The committee continues to investigate reports of the unlawful practice of law, issuing letters, negotiating Cease and Desist Agreements, or recommending prosecution to the BOG as appropriate.

This year the committee, spearheaded by Amber Hollister, organized a Notario Fraud CLE in September to increase awareness and facilitate greater discussion among those invested in combating the problem.

The committee continues to work on drafting and perfecting UPL Opinions to assist the public in determining whether certain activities constitute the unlawful practice of law. This year we published an opinion about the Representation of Family and Friends.

Matters considered/Matters pending:

53 cases were opened the year as of November 14, 2014. There are 16 matters still currently open. We issued eight cautionary letters, three notice letters, three advertisement letters, and referred four cases to other agencies. We dismissed fourteen cases, negotiated one Cease and Desist Agreement, and are in the process of negotiating two more Cease and Desist Agreements. We took no action on two cases.

Recommendations for 2015:

The Committee suggests members stay on top of the three-month turnaround rule implemented in 2013. This keeps investigations fresh, and provides timely resolution to the complainant and respondent. In the event a matter is referred for prosecution, timely resolution is vital.

The Committee will continue drafting UPL Advisory Opinions as appropriate topics become apparent.

The Committee will continue its efforts to educate the public about the dangers of the unlawful practice of law, especially in the notario and debt reduction contexts.

The Committee suggests maintaining a diverse group of investigators with varied background and experience. Having at least one investigator at DOJ has continued to prove helpful in allocating helpful resources to investigators, such as people locate services. It has also been helpful having members who have family law experience and immigration law experience. Because complaints of notario fraud often involve Spanish speakers, we recommend that the BOG continues to appoint members with Spanish language skills to the Committee.

To the extent possible, the Committee also encourages members to be present for meetings in lieu of telephonic appearances. While that is not always feasible, particularly in light of the distances some members would have to drive, in-person meetings were always much more helpful in terms of engaging in meaningful discussions about investigations.

Respectfully submitted: Laura B. Rufolo (CH), Katharine von Ter Stegge (CH-Elect), David F. Doughman (SEC), Joel C. Benton, Jermaine F. Brown, Erin K. Fitzgerald, Frank H. Hilton, Alan S. Lanker, P Andrew McStay, James H. Nitta, Karen M. Oakes, AnneMarie Sgarlata, Caroline Louise Smith, Ellen Marie Weintraut, Sara L. Dorland (PM), Robert P. Latham (PM), Amber Autumn Hollister (BL).



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