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SUPREME COURT  
STATE OF WASHINGTON  
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BY RONALD R. CARPENTER  
CLERK

January 14, 2009

Clerk of the Supreme Court  
P.O. Box 40929  
Olympia, WA 98504-0929

**Re : Comments in Opposition to proposed Legal Technician Rule**

**WSBA Board of Governors, WSTLA and WSBA Practice Sections  
in Opposition to the Legal Technician Rule Proposal**

Clerk of the Supreme Court,

The Legal Technician Rule seeking to deregulate significant portions of the practice of law in Washington State has been analyzed at length by a great many practice groups, the WSBA Board of Governors, Washington State Trial Attorneys.

Regardless of the area, all of these groups have detailed the many failings of the Legal Technician proposal.

Most pointedly, the WSBA Board of Governors pointed out that the indigent would not be helped whatsoever by the rule, yet, it would cost \$700,000 to set up.

Many groups have pointed out the many issues which would cause harm the public from people with only 2 years of college having never completed college, attended law school or take the bar exam. Yet, the POLB is suggesting that the technicians be able to make the initial analysis of cases and suggest a course of legal action. Yet, knowing how a myriad of laws intersect involving retirement systems, community property and other issues make handing dissolution cases difficult often for even the seasoned attorney to handle. Thus, attorneys have practice manuals, CLES and email listservs to assist them.

The technician proponents would allow the technicians to begin suggesting forms to fill out which would be a disaster as no forms should be selected until a legal course of action has been analyzed and suggested.

Enclosed are letters and minutes from the following organizations:


- 1) WSBA Governors Meeting on March 3, 2006 (voted against Legal Technician Proposal 12-2).
- 2) Washington State Trial Lawyers December 7, 2006 (WSTLA Board Voted against Legal Technician proposal (34-0)
- 3) BOG Member Salvador A. Mungia report in *Trial News* discussing why the Legal Technician proposal was voted against.
- 4) Washington Young Lawyers voted 13-1 against Legal Technician Rule.
- 5) WSBA Family Law Section opposed the Legal Technician Rule
- 6) Pierce County Family Law Section Opposed the Rule in July of 2005.

These documents will hopefully explain the shortcomings of the proposal in some detail and give context to the issue. Please make them part of the discussion.

**The Washington State Supreme Court should reject this flawed proposal which would place the public at risk as noted by nearly every group who has analyzed the matter.**

Thank you for your attention to this important matter. I may be reached (253) 272-1434.

Sincerely,

  
Erik Bjornson WSBA #25204

## WSBA BAR NEWS

*Dear Editor*

It is encouraging to see the near universal opposition to the "Legal Technician" proposal by the practice groups who have analyzed it as well as WSTLA and the Board of Governors.

The proposal would have allowed non-lawyers to practice much of the law that attorneys do now with as little as two years of community college education while creating a parallel licensing system for the non-lawyer "legal technicians," funded by \$700,000 in WSBA bar dues.

The WSBA Family Section has explained to the BOG that the measure would fail to provide "competent and qualified legal assistance" and would fail to fulfill the legal need "in any meaningful way."

Consequently, on November 30, 2006, the Board members of Washington State Trial Lawyers Board voted unanimously against the proposal (34-0) urging **"the WSBA to take a strong stand against the legal technician program and pilot project."**

In their subsequent letter, WSTLA cited 7 reasons they opposed the technician proposal including "the difficulty of assuring the delivery of competent legal services," and

the likelihood that the technician would be no less expensive than a "young or less qualified attorney," and that there would be no assurance that "legal technicians will actually provide services to the poor."

According to a member of the WSBA Board of Governors, WSBA members were 95-1 against the proposal.

The Practice of Law Board should drop the technician proposal and instead take WSTLA's advice by assisting low income residents to obtain competent legal services through "GAAP program and existing legal services."

*Erik Bjornson, Tacoma*

**WSBA BAR NEWS**

April 2006  
The Board's Work

by Lindsay Thompson

Seattle, March 3, 2006

Gathering at the WSBA office, the Board of Governors heard a lengthy and detailed presentation from Practice of Law Board Chair Steve Crossland and members Stephanie Delaney, Rita Bender, and Judge Paul Bastine on the POLB's proposal to create a licensing and regulatory scheme for nonlawyer "legal technicians."

While passionately presented, the idea fell foul of the Dr. Fell Syndrome: The BOG liked what POLB stood for, but not how it stood.

Crossland's PowerPoint reiterated POLB's past arguments for legal techs as the answer to the large unmet civil legal services needs of Washington's poor. He recounted the hearings held and presentations made. "Only lawyers can solve the problem," he declared.

Judge Bastine reminded the BOG that POLB is a body of the state Supreme Court, separate from WSBA, the better to avoid restraint of trade accusations. To justify POLB's plan for creating a new regulatory system for people to practice in limited areas of law, he cited a 2005 Federal Trade Commission letter to the Kansas State Bar. It maintained that nonlawyers should be able to provide legal information and advice absent clear evidence of harm to the public. Examples the FTC gave included real-estate agents; tax preparers; tenant and consumer associations; investment bankers and business planners; healthcare facilities (for powers of attorney and directives to physicians); self-help book publishers; websites; and computer programs. He went through how the state Supreme Court has created some arenas in which nonlawyers can already practice in limited areas of law in Washington.

Stephanie Delaney then described POLB's intended regulatory scheme: completion of an approved course of study; passage of an exam covering general and specialized practice area legal knowledge; payment of application and licensing fees;

a period of practice under a lawyer's supervision; some required pro bono work; a physical office in-state; no puppy-milling work to unlicensed minions; written contracts with clients; meeting lawyers' ethics and IOLTA requirements; and being subject to a discipline program. All in all, she concluded, legal techs will be even more regulated than lawyers, and at a cost to WSBA, over the five-year startup period, of less than one half of one percent of WSBA's budget. After that the program will be self-supporting, she told the BOG, and the money repaid.

**Rita Bender explained to the BOG that there'll be a seven-member Nonlawyer Commission - a POLB subaltern - to create still lesser groups to study what areas of law should be open to legal techs. She told everyone POLB believes there has to be a regulatory framework in place before anyone decides on any areas of law to open up.**

Judge Bastine argued the POLB Plan would deal effectively with unauthorized legal practice, improve the quality of legal services, and provide a solution to the issue of unmet legal needs. Crossland called the plan "a low-cost, low-risk, high-benefit plan."

Governor Doug Lawrence agreed. He said General Rule 12, which defines the purposes of the WSBA, calls on us to promote a civil legal system open to all. **While he found his constituents were "95 to 1" against the idea,** Lawrence thought POLB's plan a ". . . good, important step. How can we take work away from lawyers," he added, quoting a frequently voiced objection, "when we aren't doing it now?"

**Governor/Treasurer Mark Johnson disagreed. In the five-year rollout period, he said, WSBA would be hit for recurring and non-recurring costs that could run as high as \$700,000. "There's no evidence enough people will sign up for this to pay for itself in five years."**

Johnson dismissed the FTC letter as "Worthless. The FTC doesn't regulate the legal profession in Washington."

Warming to the theme, Johnson asked why people would want to go through a burdensome certification program, and open an office, to serve people with no money to pay for the service. "And what about malpractice insurance?" he added.

Governor Kristin Olson reported that her constituents were all against the plan. She didn't believe it would meet the unmet legal needs goal, and wondered why the WSBA imposed extra pre-admission requirements on new lawyers within recent memory only to be asked now to endorse creating a class of less-well-trained technicians. Responding, Chair Crossland contended legal techs would be more qualified out of the box to serve the public than newly admitted attorneys. He added that in the best case, the program won't be up and running till 2009 or 2010, so there'll be no out-of-pocket any time soon.

Governor Marcine Anderson expressed admiration for the POLB's presentation and commitment, but was concerned they want to just create a new level of services the poor still cannot afford. Rita Bender replied, "It might not work, but what we have now isn't working, either."

Governor Mike Pontarolo liked the POLB concept, but questioned how market forces could address working for people with no disposable income to speak of; doubted it would curb UPL; and worried the plan has too many unknowns at the front end.

Governor Eron Berg agreed with Pontarolo's points, then asked why POLB's plan couldn't be tested as a pilot program. He wondered, too, why the Young Lawyers Division GAAP program, in which lawyers agree to work for low, capped fees, couldn't be rolled out statewide more easily, since it is already working.

**Rita Bender contended you couldn't do a pilot program until you have the standards and regulations in place. Once we do that, she said, the first area of law identified for a certification program would become a de facto pilot program.**

Governor Katie O'Sullivan questioned POLB's apparent reliance on the FTC letter because of the examples it listed of areas where nonlawyers could give legal information and advice, only one dealt even peripherally with low-income legal needs.

Governor Stan Bastian favored doing something, but didn't think the POLB plan was it. He moved that the BOG take no position on the matter when/if the POLB sends it to the Supreme Court.

Governor Jim Baker agreed with Governor Lawrence's comments, but was concerned that legal techs would compete most directly with debt-saddled new lawyers. Governor Salvador Mungia preferred a motion to oppose the plan. He was still waiting, he said, "to hear that this will meet the need."

President Brooke Taylor opened the discussion to liaisons. WYLD President Noah Davis told the BOG young lawyers aren't so much motivated by the practice impact legal techs could have as by concerns the plan won't address the unmet need or UPL. He said YLD's trustees oppose the plan, 13-1.

Gail Nunn, speaking for the WSBA Family Law Section, dittoed Davis. Her executive committee opposed the plan, 16-2.

Defense Trial Lawyers rep Jim Macpherson worried that creating this new level of legal technician might lead to new efforts to de-fund existing legal services programs on the grounds there was now a market-based alternative. The Litigation Section opposed the plan, too.

*Diana Moller, representing the Washington chapter of American Immigration Lawyers, expressed frustration that her group's concerns have been ignored by POLB. She told the BOG nonlawyers in the immigration field often charge more than lawyers do, in effect, preying on especially vulnerable people in a field where one error could result in a client's deportation. She failed POLB for "a naive sense of altruism."*

After some further comment in the same vein, Governor Bastian withdrew his no-comment motion and Governor Mungia put his up to oppose the plan as proposed and drafted. The motion to oppose the plan passed, 12-2. Governor Berg moved to "keep the door open" to more discussion with the POLB; Mungia called the motion "a non-motion," since the two bodies could do that without formal action. "It sends a message," Governor Lawrence commented. Berg's motion passed, 12-1-2.

The rest of the day was more routine business. Legislative Director Gail Stone updated the BOG on bills WSBA had in the Legislature and said overall this year's legislative campaign has gone well. But with a week left in the



session, anything could happen, and she was immediately back to Olympia to deal with a bill addressing judicial campaign finance and elections.

King County Bar Veep John Ruhl and Governor Lawrence rolled out a plan for a WSBA task force to dust off the idea of merit selection of judges, an oft-studied issue of the past 20 years. They asked for a 10-member body to include lawyers, judges, lay members, and minority bar representatives.

Judge Eileen Kato, representing the District and Municipal Court Judges Association, expressed concern that such a study might be at odds with the position of the Board of Judicial Administration, which includes members of all levels of courts in Washington and prefers elections at all levels. She told the BOG campaign finance excesses aren't an issue below the appellate courts. "We just pay for campaigns with our home equity loans," she said. After some more discussion, the Board voted 13-1 to authorize the study. Lawrence intends to get the group cracking, and have an initial report by July.

WSBA President-elect Ellen Cone-dera Dial chairs the committee that is planning WSBA's planned December move to new digs in Seattle. She updated the BOG on how things are progressing, including the subject of a telephone BOG meeting in January: space needs. As work and planning has gotten more concrete, it has developed that more space will be needed, so in January the BOG authorized the President and the committee to see what they could negotiate.

The Board nominated Josephine Townsend and Joseph Delay for Supreme Court appointments to the Commission on Judicial Conduct. They nominated Bruce Reeves and Wayne Blair to the Access to Justice Board, but got stuck on making two other nominations because the Board made three recommendations for the two places and then listed a number of other candidates who didn't make the cut without explaining why. So they will get some additional information provided and take the remaining nominations up in April.

The BOG also received a proposal to create a Juvenile Law Section in the WSBA. Under the Bylaws, that's an initial step. Publication of notice for six months, development of bylaws, a budget, and gathering at least 50 WSBA members willing to join will follow. Completing that process was

the new Sexual Orientation and Gender Identification Legal Issues Section, which completed those steps. They also approved a change to the term of office of CLE Committee members to make it easier for them to serve effectively on a body with a long learning curve.

Judy Berrett - my boss - gave a presentation on the work of the Member and Community Relations Department, which she heads. Big staff, it turns out, doing a remarkable variety of things.

Judges Catherine Shaffer and Anne Ellington gave an interesting and provocative presentation on a report they've been involved in developing on improving access to the judicial system for persons with disabilities. It's a strikingly thorough piece of work designed to help courts in Washington deal with incredibly complex laws in the area. They want to get it published and asked for WSBA's endorsement. See p. 18 for a report on this issue. The BOG will entertain ideas for publication.

So that's how it went - a lot accomplished in a one-day meeting. Next meeting is April 21-22 in Walla Walla.



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December 7, 2006

President Ellen Conedera Dial  
Board of Governors  
Washington State Bar Association  
Puget Sound Plaza 1325 4th Ave., Ste. 600  
Seattle, WA 98101-2539

RE: *Legal Technician Project proposed by the Practice of Law Board*

Dear President Dial and Governors:

Affordable, reliable legal and law related services are not sufficiently available in the State of Washington, thus resulting in a denial of access to justice for many of our state's poor or low income citizens. The Washington State Supreme Court created the Practice of Law Board (POLB) in 2001 to explore and hopefully address this concern. More specifically, the POLB was to promote and expand access to affordable and reliable legal and law related services; make recommendations regarding the circumstances under which non-lawyers may be involved in the delivery of such services; enforce rules prohibiting the unauthorized practice of law related to services that pose a threat to the general public; and ensure that those delivering legal services in the State of Washington have the skill and competency necessary to serve the public.

In March 2006, the POLB presented a proposal to the WSBA Board of Governors to license legal technicians. This proposal was rejected by the Board of Governors on a 12-2 vote. The POLB then decided to create a pilot project for one or more practice areas where non-lawyers (legal technicians) would be authorized to practice.

At its October 2006 retreat, the POLB voted to establish practice areas that it considered appropriate for further investigation as to whether any or all of them should be included in the pilot project. The following is a list of potential authorized practice areas:

1. Family Law
2. Housing/Landlord-Tenant
3. Immigration Law
4. Elder Law

Lawyers working to protect the safety of Washington's families.



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Web site:  
www.wstla.org

These four (4) areas are each to be studied by a separate sub-committee of the POLB to determine if allowing legal technicians to practice in these areas will be economically viable and address the concerns over denial of access to justice that initially led to the creation of the POLB. Following a six month study period, the results and recommendations will be presented to the POLB and that Board will adopt a Rule to implement the pilot project. The POLB will next present the proposal to the WSBA Board of Governors and will then submit their proposed Rule to the Supreme Court for approval.

It has been suggested that the initial budget for this pilot project would be \$700,000 and would initially be funded by the WSBA. It is proposed that legal technicians' licensing fees would eventually contribute significantly to the cost of funding such a program.

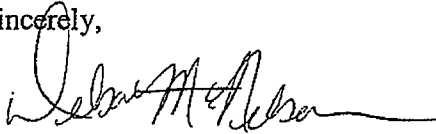
The WSTLA Board of Governors has reviewed, discussed and debated the issue of licensed legal technicians and this proposed pilot project. At our November 30, 2006 Board meeting, we voted unanimously (34-0) to oppose this project. We have great concerns about the project, on multiple fronts. Our concerns include the following:

1. The great cost and complications of the WSBA running a virtually parallel admissions and disciplinary process to cover legal technicians.
2. The difficulty of assuring the delivery of competent legal services. The public will believe that licensed legal technicians are well qualified and knowledgeable in all the areas of law covered by the specialized field even though this may not be the case and the public may be unable to appreciate the implications and consequences resulting from the disparate levels of training, education, experience and skill between attorneys and legal technicians.
3. The ability of legal technicians to afford and even obtain adequate malpractice insurance to protect their clients.
4. The fact that, under current rules and laws, communications between a client and an independent legal technician would likely not be considered privileged.
5. Because licensed legal technicians will have their own physical offices together with the overhead that accompanies such an office, the cost of hiring a legal technician would likely be no less expensive than hiring a young or less experienced attorney.
6. There are no protections built into the project to ensure that legal technicians will actually provide services to the poor, as opposed to selling their services to those who can most afford them.
7. If litigation becomes necessary, the legal technician will not be able to appear or participate in court or in depositions and the client will have to hire a licensed attorney, potentially duplicating costs they have already incurred.

8. A better use of \$700,000 of WSBA money would be to direct that money to further fund and support existing WSBA projects, including the court facilitator program, the GAAP Program and existing legal clinics and legal services offices throughout the state that are already staffed by attorneys.

WSTLA believes the goal of assuring access to justice to all the citizens of Washington state is extremely worthwhile. However, we are concerned that this proposal would create a system where legal and law related services would be provided by non-lawyers with no assurances related to its long-term affordability and without an adequate means of protecting the public against bad or incompetent advice by legal technicians. We therefore urge the WSBA to take a strong stand against the legal technician program and pilot project.

Sincerely,



Deborah M. Nelson  
President, Washington State Trial Lawyers Association

cc: Hon. Gerry Alexander, Washington Supreme Court  
Practice of Law Board  
Gerhard Letzing, WSTLA  
Karen K. Koehler, Esq.  
Steven G. Toole, Esq.

# Law Office Of Wendy E. Zicht

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July 7, 2005

Ms. Julie Shankland  
WSBA  
Practice of Law Board  
2101 Fourth Avenue  
Suite 400  
Seattle, Washington 98121

**Re: Proposed Amended Rule GR 25/Limited Practice Rule for Legal Technicians**

Dear Ms. Shankland:

I am writing you on behalf of the Tacoma Pierce County Bar Association Family Law Section Board of Trustees. The Board has reviewed the proposed rule GR 25 and is gravely concerned about non-lawyers providing legal services. While the rule is an attempt to make justice more accessible to the needy, we believe that the result will be just the opposite.

The rule would allow paralegals to practice law in all aspects, except court appearances. The only tasks that appear to require that the work be approved by and reviewed by a lawyer are legal research and drafting. The paralegal would be able to interview clients, explain legal documents, complete mandatory family law forms, and explain other pleadings that should be filed. All of this could be done without lawyer supervision.

As practitioners, we frequently see potential clients who have obtained a pro se dissolution or legal separation with the "assistance" of a paralegal service. These potential clients have sought our assistance, because they have found serious problems with the final documents. For example, (1) the decree does not divide a pension or it fails to include a qualified domestic relations order; (2) a military pension is not divided and, after one year, the harmed party is precluded from requesting division; (3) the decree fails to divide the family real estate, thus leaving both parties as tenants in common (against case law); (4) a parenting plan is entered providing for visitation "as agreed" when the parties cannot agree upon anything; (5) child support deviations, deductions, or adjustments are not addressed; or (6) the decree is silent regarding a child born during the marriage.

Ms. Julie Shankland

WSBA

July 7, 2005

Page 2 of 2

To rectify such errors, the potential client has to pay thousands of dollars in attorney fees to file a motion to vacate the decree. The courts have discretion to deny the motion. Some judicial officers believe that the litigant should permanently face the consequences of failing to have a lawyer assist them initially. Moreover, the Court is bound by the time limits in CR 60 (b), and, in some cases, has no choice but to deny a motion to vacate. When the motion is denied, the litigant is stuck with an erroneous decree forever. And, there is no malpractice insurance from which to collect damages.

The proposed rule does not provide for a WSBA client compensation fund, similar to the Lawyers' Fund for Client Protection. Although the proposed does require the technician to show proof of financial ability to cover damages for acts/omissions, the rule does not state the type of proof required. And, low-income clients will not have the financial ability to hire a lawyer to sue the technician for malpractice.

The practice of Family Law is complex and intersects with almost all other areas of law. As attorneys, we learn Family Law through study of case law and statutes, daily review of advance sheets, experience in the courtroom, and on-going discussions with our peers. The WSBA Family Law section has an active list-serve where members maintain discussions that are vital due to the complex issues that arise. Although we have mandatory pattern family law forms, Family Law is not just filling out forms. There are many issues that are not addressed in the mandatory forms. The practitioner has to know how to address those issues and to draft the appropriate documents.

The TPCBA Family Law Section supports the WSBA's ongoing efforts to increase access to legal services. Many section members already perform pro bono or low cost legal services. Further, the TPCBA Lawyer Referral Service provides low cost consultations with lawyers.

We believe that the WSBA's proposed rule moves in the wrong direction and will cause more harm than good. Law, like medicine, is a profession. The needy deserve the professional services of a lawyer. While the proposed rule will hold the legal technician to the standard of care of a lawyer, the legal technician is not a lawyer. It is a standard that would be impossible to meet.

Thank you in advance for your consideration of these issues. If you have further questions or would like additional information, please do not hesitate to contact me.

With kind regards,

Wendy E. Zicht

TPCBA Family Law Section President

cc: Karena K. Kirkendoll, TPCBA President

## **The WYLD Board of Trustees' Position on the Proposed Legal Technician Rule**

**Written by Noah Davis and John Brangwin**

At its recently concluded meeting of February 25, 2006 in Tacoma, and after full deliberation by the Board, the WYLD Board of Trustees voted 13-1 against the proposed Legal Technician Rule. (The WSBA Board of Governors has also, subsequently, rejected the proposed rule.)

### **Why We Oppose the Rule**

There is no question that there exists an unmet legal need in the State of Washington for persons of lesser economic means. This unmet legal need, as underscored by the Civil Legal Needs Study, occurs in both urban and rural areas, and serves as an impediment to justice.

The question before us is how we, as the legal community, go about addressing it.

One proposal is the creation of a licensed non-lawyer profession to be known as "Legal Technicians." Although recognizing that the idea behind the proposal is undoubtedly genuine and benevolent, the Proposed Rule simply does not directly address the concerns identified in the Study.

#### **Problem #1: Affordability.**

The problems identified in the Study essentially relate to the affordability of attorneys. That being said, the WYLD does not see how persons of lower economic means will be able to afford a Legal Technician; just like lawyers, Legal Technicians will have basic office- and practice-related costs dictating the baseline price they charge. With no limitation on how much a Legal Technician may charge, and no evidence that Legal Technicians will charge less, the rule simply does not address the needs.

#### **Problem #2: The unauthorized practice of law and failure to enforce.**

At the moment, a number of individuals are placing advertisements and assisting persons in need of legal services through what is undoubtedly the unauthorized practice of law. To date, there have been very few prosecutions of these individuals. Due to the lack of enforcement, it is questionable how this program will address the current unauthorized practice of law, and it is likewise a cause for concern as to why any individual would go through the rigorous certification process when they can already practice law without real threat of prosecution.

#### **Problem #3: The confusion over what may be the authorized practice of law.**

The rule as proposed is not clear as to what services a Legal Technician may engage. Since the Practice of Law Board has yet to set out the proposed practice areas that a



Legal Technician may offer services, none of us have any idea as to the actual services that the Legal Technician may perform. This "to be determined" approach is a recipe for disaster, both in terms of disagreement and dissension among the legal community, but most importantly, protection of clients.

Without having a practice area identified, there are more questions than answers. Without more substance, it cannot be determined what services the Legal Technician would actually be providing.

#### **Problem #4: Quality of legal services.**

While not every lawyer on every given case will provide the best legal advice, because of the legal training afforded the lawyer they possess particular ability to spot issues, to research the law and to think critically. Perhaps instead of diluting the quality of legal services through the creation of a non-lawyer profession, a better approach is to make law schools more accessible and more affordable. By attempting to tackle one issue through this rule we are creating another: Unknown injuries to befall clients served by Legal Technicians without the requisite legal background.

The Better Course: The WYLD's Proposals

#### **Proposal #1: EXPAND GAAP**

Instead of adopting/supporting the Legal Technician Rule, the WYLD proposes expanding the Greater Access and Assistance Project ("GAAP").

Originally created in 1996, the program has operated nearly exclusively in Spokane County, until recently expanding to other counties.

Under GAAP, the WYLD has partnered with the Northwest Justice Project and CLEAR in helping persons of reduced economic means to be paired with lawyers who have agreed to a reduced fee representation. In Spokane, Snohomish and Kitsap Counties, this rate is no more than \$50 per hour; King County is capped at \$75/hour.

We've been expanding the GAAP program on shoestring budget, and we are proud to say it is working! Imagine the possibilities by funding GAAP with the same amount of money the Legal Technician Rule would undoubtedly cost.

We are ready to serve hundreds, if not thousands, of qualifying clients at reduced costs with lawyers, both young and older. We just need a little more help to have this program reach into other areas of the State.

#### **Proposal #2: MANDATORY PRO BONO HOURS.**

As has been raised before, with nearly 30,000 lawyers in this state, if the Bar were to institute mandatory pro bono hours (30 hours per year), we could generate nearly 900,000

hours (which may be double what the bar current provides). While mandatory pro bono hours may not be popular, it is a better fix than this proposed rule.

### **Proposal #3: REVAMP THE PROPOSED RULE.**

As stated above, as novel as it is, the rule just doesn't seem to address the real problems identified in the Legal Needs Study, and gives us more questions than answers. This rule needs to be retooled by focusing on one or two particular practice areas and spelling out exactly what a Legal Technician may do. Even then, there still exists no evidence that the people that may use Legal Technicians are the ones that the Legal Needs Study identified as having unmet legal needs.

A better approach is a very limited pilot program in a particular area, perhaps bankruptcy or family law, so that we can all study the effects and unintended consequences, and we can all be informed of the benefits or fallacies of such a program.

### **CONCLUSION**

The WYLD is gravely concerned with the unknown course the Legal Technician Rule chartered to sail. We are also concerned whether it will even float – that is, serve the purpose for which it was designed. Washington State should all stay out of this boat until it has undergone more testing, as the danger of sinking is as high as ever.

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**Salvador Mungia : Bar News 10/27**

Update on proposed rule allowing legal technicians to engage in the limited practice of law.

Governor Wiitala, the BOG's liaison to the Practice of Law Board regarding the legal technician proposal, gave a brief update. The POLB will be seeking, in the next two to three months, suggestions on what area of practice should be considered as a test case for the proposed legal technician rule. As I have previously reported, I voted against the proposal when it first came to the BOG for a variety of reasons. **One of the reasons why I voted against the proposal was that I was not convinced that it would promote access to the civil justice system for those who cannot afford such access. This is supposed to be the motivation behind the proposal. As I learn of new information, I will keep you informed.**