

Motion E

Offered by Dan Clark

MOTION: Regarding recommendation of the Work Group that NW Lawyer become an “opt out” requirement of membership, that it be budget neutral not funded by member license fees, that its content be requested to focus more on substantive legal issues & case law review and less on controversial social and political content, and that the name be potentially changed to better reflect the three (3) current legal license types of WSBA.

Having had the honor to serve on the BOG since July 27, 2017, and hearing from various members of District 4 which encompass Adams, Benton, Franklin, Grant, Douglas, Okanogan and Yakima Counties, one common theme that I hear from most members is that they have objections and/or concerns that NW Lawyer's content is too much individual political view points of contributors and/or WSBA staff that submit articles, and not enough substantive content.

I do not believe this is just a common Eastern Washington member viewpoint, but I've heard several members in Southwest Washington, and other rural areas also echo similar concerns. While most members seem to just turn to the discipline system and see how got in trouble, and don't really read the magazine. (I also see most of my co-workers throw theirs away and do not keep them), some like me, actually save the NW Lawyer for future review.

These statements and generalizations are in no way meant to take away from those that contribute to NW lawyer and/or the hard work of the WSBA communications department and NW Lawyer staff. There are those that believe that content is acceptable and should be continued. However, given the potential risk to WSBA under Fleck type litigations, I believe it is prudent for this work group to discuss this and make a potential recommendation to the Supreme Court to adopt potential changes to the current operations.

Given that most if not all of the current litigations facing other State Bar entities seems to be connected with articles and/or statements made in writing in publications by these State Bar entities, I think it makes sense that we look to try to be more “vanilla” for lack of a better term with our content v. what has historically been published in NW Lawyer.

Also, given that WSBA now has LLLT members and LPO members, the name “NW Lawyer” seems exclusionary and improper for these license types and it makes sense to recommend that the name be changed to something like “Washington State Bar Magazine.”

Additionally currently NW lawyer's policy states as follows:

“The editor reserves the right to edit articles as deemed appropriate. The editor may work with the writer, but no additional proofs of articles will be provided. The editor reserves the right to determine when and if to publish an article.

NWLawyer is published nine times a year on about the first of the month. The current circulation is approximately 34,000.”

Given that NW Lawyer is currently subsidized by member license fees for operations of \$197,103.00 in deficit spending by member license fees to subsidize the 9 issues that are annually published, I think that this is an issue of major potential litigation for the entity. While some of my fellow Governors have started to call to abolish NW Lawyer, I think there are certainly members that would want to keep it. Given that NW Lawyer's editor seems to have

total and independent control to publish content, I think this causes potential liability issues for WSBA as an entity.

Based on this, I hereby move that this Work Group recommend to the Supreme Court the following:

- 1. That we recommend that the Washington State Supreme Court look to establish overall review and decision making authority of accepted content of the Editorial Process of NW Lawyer.**
- 2. That we recommend to the Washington State Supreme Court that the WSBA budget cost center for NW Lawyer be "budget neutral" so that member license fees not be used to subsidize operations of NW Lawyer.**
- 3. That the funding for NW lawyer that is needed that is not met through sales of advertisement revenue be funded through adoption of an operational NW Lawyer fee paid by members that want the magazine.**
- 4. That if motion item #3 is not adopted, that the Supreme Court look to establish an "opt out" provision in the license fees to allow for members that did not wish to subscribe to NW Lawyer to be able to opt out of payment of license fees similar to that of a Keller deduction.**
- 5. That to try to reduce potential for Fleck and Oregon and Texas type potential litigations against WSBA that a recommendation be made to NW Lawyer staff that the content of NW Lawyer be solely focused on practice of the law, and/or relevant case law review and changes to Washington and Federal law, and less on opinions and/or stances of controversial issues where opposing viewpoints could likely lead to increased risk of litigation.**
- 6. That NW Lawyer look to potentially change the current name of "NWLawyer" to some alternative name to better recognize the three (3) current license types of WSBA members and to prevent confusion with Oregon and Idaho's bar magazines.**

Respectfully submitted by:



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