

TO: Mary Fairhurst, Chief Justice and Chair of the WSBA Bar Structure Work Group

FROM: Esperanza Borboa

DATE: June 19, 2019

RE: Race Equity, Inclusion and Access to Justice

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As the Public Member of the Work Group, I am focusing on “what will be the impact of the Work Group decisions to members of the Public who look to the law to resolve legal issues and/or protect their rights?”

A little about me before I lay out how I interpret what I see happening. My race, gender and life experience are witness to how the practice of law affects communities like mine. I am a daughter of immigrants, raised in poverty in the barrios of East Los Angeles in the 60’s and 70’s. My station today is a result of standing firm on a value that each of us comes into this world deserving of a life free from the violence of poverty, racism, sexism, or any other human-made obstacle that does not permit us to be the men and women we were meant to be.

My comments here will not include references to case law; I will leave that for the attorneys in the group. However, I do recognize and appreciate the seriousness of cases such as Janus, Keller, North Carolina, Abood, etc., and the potential impact to our states legal structure. What I also recognize is that these conversations, decisions, arguments, and debates have gone on for a very long time without the input of the Public. It is encouraging that the Supreme Court saw it beneficial to include a Public voice in the Work Group.

I agree with the conclusion raised in Fred Corbit’s memorandum to the Chief Justice dated May 13, 2019. I appreciate his mention of GR 12 (a) regarding protection of the Public and his suggestion to appoint Public members to the BOG. I also very much appreciated Mark Johnson’s paper and his focus on First Amendment challenges. Although I have not read all the Public comments, I have, however, read many comments submitted by individuals, groups, and organizations.

I think it is important to review our state justice system through the eyes of the Public to help keep us connected to the human element of the decisions we make. I want to specifically address those members of the Bar who see the work of Access to Justice Board, Court Commissions, and the Sections as a separate non-mandatory group within the Bar. In reviewing GR 12.1 it is clear that the Supreme Court sought to address some of our shortcomings by setting forth rules that hit at the core of what is needed.

These Rules should be viewed by all WSBA member as necessary in order to create a more just and equitable legal system in our state. To do this requires skills and knowledge which can be made available through the activities of the Access to Justice Board and the Minority and Justice Commission. Without WSBA Bar member participation in these kinds of activities, it will be difficult, if not impossible, to fully realize the principles set forth in these Rules.

Access to justice is key in the protection of the public. The history of our justice system is rife with examples of how laws and the practice of law have negatively affected people of color, poor people, the disabled, and anyone one else viewed as the “other.” It would be a mistake to think that because one may

not interact with this part of the public in their practice, one has no impact, and therefore, should be exempt from needing those skills and knowledge.

The whole of our legal system is influenced by every WSBA member. We are all products of our experiences and environments, which influence how we see the world and react to it. As a person of color, I do not have a choice on whether I will interact in white culture because it is the dominant culture. Conversely, a person from the dominant culture does have a choice on whether and how they will interact with people of color. If a person does not recognize the need for expanding their experience in relation to people of color, their perspective becomes narrow, which can influence their reaction to concepts and ideas related to race equity and inclusivity.

Protecting the public and advancing the administration of justice and the rule of law is an obligation to which all attorneys should adhere. Access to Justice and the activities that broaden one's knowledge and experience in this area should not be seen or interpreted as separate from what is mandatory. If we are to continue building on a legal system that is truly just and serves all people, we must recognize first that we do not currently have such a system. The Public is served only to the extent that access to justice is the foundation for WSBA.

Our justice system does not work fairly for a large segment of the public, and WSBA members lack the knowledge and experience to advance access to justice alone without efforts such as the Access to Justice Board, the Court Commissions, and the Sections. I believe the recommendations shared by Fred Corbit on pages 5-6 of his memorandum address how best to structure the WSBA and include the Public voice. Having a healthy and robust justice system in service to all, is a vision we can all agree on and a responsibility we all share to make that vision a reality.