



# PRACTICE *of* LAW BOARD

## Annual Report for the Supreme Court Fiscal Year 2022

Oct. 1, 2021, to Sept. 30, 2022

Michael Cherry  
Chair, Washington Supreme Court Practice of Law Board

## 1.0 Executive Summary

Fiscal Year 2022, which ran from Oct. 1, 2021, to Sept. 30, 2022, was a year of action for the Practice of Law Board (Board). The Board delivered on each of the Board's areas of responsibility under General Rule 25: Practice of Law Board (GR 25).

Accomplishments include:

**Education:** The Board co-published with the Washington State Bar Association (WSBA) a first edition of a Legal Checkup. This first edition focuses on helping a person find competent legal assistance from an authorized legal services provider and guidance on preparing for a first meeting. This will help people both find competent legal assistance and reduce incidents of unlawful practice of law. The board also worked towards getting an online version of this edition available as a chatbot.

**Innovation:** The Board worked to refine its blueprint for the Court on data-driven legal regulatory reform, which would be implemented via legal regulatory lab processes. Significant work was done on researching the Court's authority to create and operate such legal regulatory lab processes and building financial models to determine costs and revenues. If approved by the Court, data driven legal regulatory reform will expand the availability of competent legal services in Washington.

**Coordination:** The Board met with prosecutors from a variety of Washington State counties, as well as representatives of the Attorney General's Office, to better understand the threshold for prosecuting unauthorized practice of law (UPL) complaints. With a better understanding of how UPL complaints should move through the process, the Board can work to ensure more complaints are actionable.

The Board continues to work toward being a diverse and inclusive Board that represents the people of Washington state.

Respectfully submitted,

/s/Michael Cherry

Michael Cherry (WSBA # 48132)

Chair, Practice of Law Board

November 11, 2022

## 2.0 Introduction

The Washington Supreme Court's Practice of Law Board (Board), with the administrative assistance of the Washington State Bar Association (WSBA), is submitting this report to the Washington Supreme Court, WSBA President Dan Clark, the WSBA Board of Governors, and Executive Director Terra Nevitt, as the Board's fiscal year 2022 report. Under General Rule 25: Practice of Law Board (GR 25),<sup>1</sup> the Board is responsible for: educating the public about how to receive competent legal assistance (educate); considering and recommending to the Supreme Court new avenues for persons not currently authorized to practice law to provide legal- and law-related services (innovate); and receiving complaints alleging the unauthorized practice of law (UPL) in Washington by any person or entity and referring such complaints to the appropriate agency for subsequent action (coordinate).

This report follows the WSBA fiscal year,<sup>2</sup> as that aligns with the WSBA budget and recruitment process as part of WSBA's administration of the Board.

In fiscal year 2022, the Board focused on putting the plans developed in fiscal year 2021 to work, and it began to measure the work of the Board toward such goals. These plans will be revised as the Board moves forward, as they provide continuity which the Board has sometimes lacked as it is staffed primarily by volunteers.

### 2.1 GR 25 Annual Report Requirements

Per GR 25(f) the Board is to file a written report and meet with the Court each year. The report must contain the following information:

- 1) Board roster, including any committees formed;
- 2) Board meeting agendas;
- 3) Short description of all UPL complaints received, the disposition of the complaint, and if applicable, the name of the agencies receiving the referral;
- 4) Progress report or copies of educational materials provided to the public;
- 5) Progress report on recommended new legal service providers or legal service delivery mechanisms;
- 6) Work plan for the fiscal year; and
- 7) Long-range work plan.

## 3.0 Board Roster

### 3.1 Overall Board (Fiscal Year 2022)

Per GR 25, the Board has 13 members. At least five Board members must be persons not currently authorized to practice law (public members).

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<sup>1</sup> See Washington Courts, General Rule 25, available at [https://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.display&group=ga&set=GR&ruleid=gagr25](https://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=GR&ruleid=gagr25).

<sup>2</sup> WSBA's fiscal year begins October 1 and ends September 30.

**3.1.1 Chair**

During fiscal year 2022 the Chair of the Board was Michael Cherry. He is an active legal professional.

**3.1.2 Members Not Currently Authorized to Practice Law (Public Members)**

These members of the Board in fiscal year 2022 were not authorized to practice law.

Name	Term	County
Dr. June Darling	10/1/21 – 9/30/24	Chelan
Pearl Gipson-Collier	10/1/20 – 9/30/23	Thurston
Brooks Goode	10/1/19 – 9/30/22	Spokane
Dr. David Sattler	3/12/21 – 9/30/23	Whatcom
Mir Tariq	1/1/20 – 9/30/22	King

**3.1.3 Members Authorized to Practice Law**

These members of the Board in fiscal year 2022 were authorized to practice law.

Name	Term	County
Lesli Ashley (LLLT)	10/1/21 – 9/30/24	Spokane
Sarah Bove (LLLT)	10/1/21 – 9/30/24	King
Jeremy Burke (Attorney)	4/16/21 – 9/30/23	Douglas
Michael Cherry (Attorney)	1/1/20 – 9/30/22	King
Kristina Larry (Attorney)	3/7/22 – 9/30/24	King
Drew Simshaw (Attorney)	10/1/21 – 9/30/24	Spokane
Michael Terasaki (Attorney)	4/16/21 – 9/30/23	King

**3.1.4 Liaisons with Other Boards**

During fiscal year 2022, the honorable Judge Fred Corbitt was the liaison with the Access to Justice Board. Jordan Couch was the liaison with the WSBA Board of Governors. Thea Jennings was the liaison with WSBA.

**3.2 New Board (Fiscal Year 2023)**

**3.2.1 Chair**

Michael Cherry was reappointed by the Supreme Court as Chair of the Board for fiscal year 2023. He is an active legal professional. This will be Mr. Cherry’s last year as chair.

**3.2.2 Members Not Currently Authorized to Practice Law**

These members of the Board for fiscal year 2023 are not currently authorized to practice law. There is one vacant position, which the Board is actively working to fill.

Name	Term	County
Dr. June Darling	10/1/21 – 9/30/24	Chelan
Pearl Gipson-Collier	10/1/20 – 9/30/23	Thurston
Ellen Reed	10/1/22 – 9/30/25	King
Dr. David Sattler	3/12/21 – 9/30/23	Whatcom
Vacant		

**3.2.3 Members Authorized to Practice Law**

These members of the Board for fiscal year 2023 are authorized to practice law.

Name	Term	County
Lesli Ashley (LLLT)	10/1/21 – 9/30/24	Spokane
Sarah Bove (LLLT)	10/1/21 – 9/30/24	King
Jeremy Burke (Attorney)	4/16/21 – 9/30/23	Douglas
Michael Cherry (Attorney)	10/1/22 – 9/30/25	King
Kristina Larry (Attorney)	3/7/22 – 9/30/24	King
Craig Shank (Attorney)	10/1/22 – 9/30/25	King
Drew Simshaw (Attorney)	10/1/21 – 9/30/24	Spokane
Michael Terasaki (Attorney)	4/16/21 - 9/30/23	King

**3.2.1 Candidates Submitted to the Court for Approval**

There are no pending candidates before the Court for approval. The Board hopes to submit a public candidate as soon as possible in fiscal year 2023.

**3.2.2 Liaisons with Other Boards and WSBA**

Judge Fred Corbit is the liaison with the Access to Justice Board; Governor Jordan Couch and Governor Erik Kaeding are the liaisons with the WSBA Board of Governors; and Thea Jennings is the liaison with WSBA.

**4.0 Board Agendas**

The Board holds monthly meetings. An agenda is circulated before each meeting and is published to the public, with the meeting dates on the Board page of the WSBA website.

#### **4.1 Generic Agenda**

The basic agenda for Board meetings is:

##### **4.1.1 Minutes**

Approval of the minutes of the previous meeting.

##### **4.1.2 Operations**

Recruitment and Onboarding—information related to recruitment and diversity, ensuring new members are included.

Equity and Disparity Workgroup—report on WSBA Equity and Disparity Workgroup from our liaison to the group (Mir Tariq).

##### **4.1.3 Education**

Legal Checkup—update on work on the Legal Checkup.

##### **4.1.4 Innovation**

Legal Regulatory Laboratory—update on the work on the lab.

##### **4.1.5 Executive Session (Coordination)**

If there is a UPL complaint to review, the Board meeting goes into executive session (Board members only) to determine the disposition of the complaint.

#### **4.2 Monthly Agendas**

Monthly agendas are posted on the WSBA website before each monthly meeting, and then replaced by the next monthly agenda. The Board minutes are available from the Board page of the WSBA website.

### **5.0 UPL Complaints**

#### **5.1 Meeting with County Prosecutors and Attorney General's Office**

On June 3, 2021, the Practice of Law Board met with 16 county prosecutors from across the state, and two representatives of the Attorney General's Office (AGO) to whom the Board refers UPL complaints.

The primary objective of the meeting was to discuss the Washington State Bar Act's unlawful practice statute (RCW 2.48.180), GR 24 Definition of the Practice of Law, and the elements of UPL.

All prosecutors and representatives of the AGO voiced the opinion that unless there is concrete harm, they are generally unwilling to proceed with a misdemeanor UPL charge. All parties acknowledge that harm is not an element of the statute or the court rule; however, realities of the AGO and the court resources come into play in making decisions to prosecute UPL.

For example, a county prosecutor, in notifying the Board as to why their office was declining to prosecute a forwarded complaint, commented:

[Our county] is currently working through a massive backlog of felony cases brought on by the pandemic and facing a historic shortage of criminal attorneys. Opening a complex multistate investigation into a group of non-attorneys...would be an inefficient use of our already limited resources.

However, participants discussed a willingness to send a “cease and desist” letter to people referred to their offices to see if that is sufficient to motivate most people to stop any unintended or uninformed UPL scenarios.

To facilitate and streamline the coordination of complaints, the prosecutors asked the Board to refer complaints to county sheriffs (who have the authority and resources to investigate) and copy the prosecutors.

The AGO requested that the Board forward all complaints to the AGO for review. The Board will implement this change in Fiscal Year 2023.

The Board hopes to conduct another meeting in June 2023, inviting representatives from both prosecutors’ and sheriffs’ offices throughout the state to continue to build relationships with the agencies who can act on UPL complaints.

## **5.2 Overall Complaints**

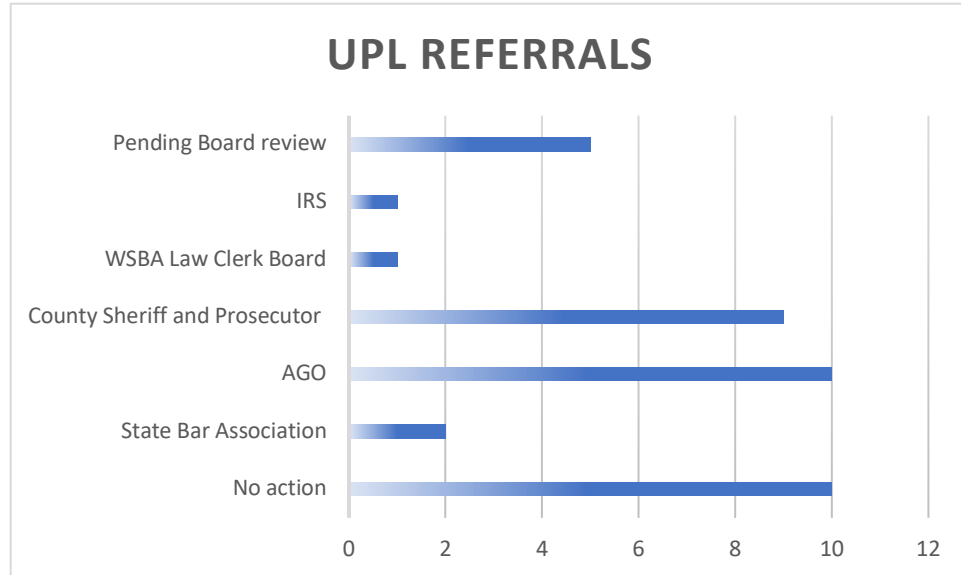
During fiscal year 2022, the Board received 31 complaints alleging UPL. This is an increase of 12 complaints from the previous fiscal year and may reflect that we are seeing more complaints about individuals for which there has already been a complaint, but against whom no agency chooses to take any action.

Five complaints were pending Board review at the end of the fiscal year.

Ten complaints were closed without a referral to any agency.

Sixteen complaints were referred to the appropriate enforcement agencies as follows:

- Four complaints were referred to the Attorney General’s Office.
- Three complaints were referred to county prosecutor and the sheriff’s offices.
- Six complaints were referred to the Attorney General’s Office, county prosecutor, and county sheriff’s offices (note one complaint also included a referral to the IRS).
- One complaint was referred to the WSBA Law Clerk Board.
- Two complaints were referred to other state bar associations (Utah and Massachusetts).

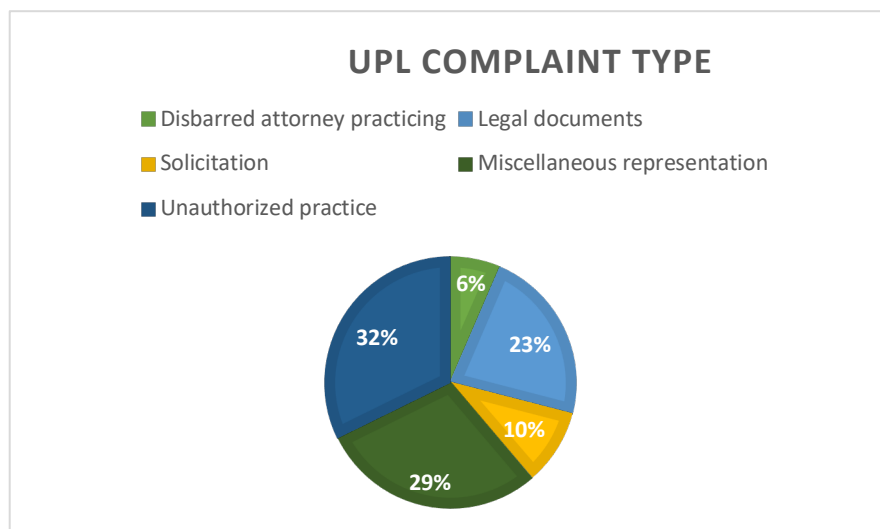


### 5.3 UPL Trends

Again, this year, UPL complaints spanned several categories.

Most often, the Board receives complaints that allege legal document preparation, unauthorized legal advice, and unauthorized practice in Washington courts. Although the Board does not know whether the AGO received complaints from other sources, the AGO filed suit against the subject of a complaint the Board referred to the AGO in June 2022 that alleged unauthorized practice in Immigration Court. The matter is described in the AGO’s [press release](#).

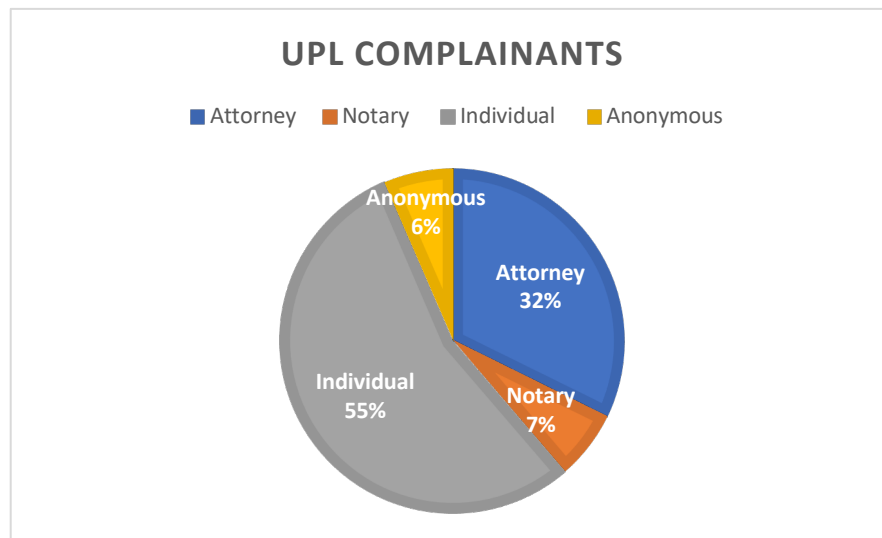
Other complaints involved disbarred attorneys continuing to provide legal services, theft and misuse of an active Washington attorney’s identity, and a “constitutional” lawyer.





#### 5.4 UPL Process Improvements (Coordination)

The Board continued to see more public (non-legal professional) complainants versus legal professional complainants. This is good because it is the public whom the Board is trying to protect by referring complaints for action. This year, the Board also received two complaints from notaries about other notaries and two anonymous complaints.



#### 6.0 Education

To address the responsibility to educate, the Board has co-published with WSBA the first edition of a Legal Checkup. The first edition focuses on helping people find competent legal assistance from an authorized legal services provider and provides guidance on preparing for a first meeting with a legal service provider. These materials were branded with the Board’s logo and marks to help people identify the source and authority of the materials.

The first version of the [Legal Checkup is available at the WSBA website](#).

The Board, in close coordination with WSBA staff, spent considerable time reworking a contract and specification for an online version or chatbot of the Legal Checkup to better reflect a set of deliverables and schedules. The Board anticipates having a prototype early in the next fiscal year.

#### 7.0 Innovation

The Board continued to work on its blueprint for data-driven legal regulatory reform, enabled through a set of processes referred to as a Legal Regulatory Laboratory. The data-driven legal regulatory reform processes would permit the testing and potential authorization of entities to provide innovative legal services or for authorized legal service practitioners (LPOs, LLLTs, and Lawyers) to use alternative business structures.

This data-driven legal regulatory reform is modeled on the Legal Regulatory Sandbox operating under the supervision of the Utah Supreme Court's Office of Innovation.

The Board worked with Kevin Plachy, Director of Advancement, and Renata de Carvalho Garcia, Chief Regulatory Counsel & Director of Regulatory Services, to create financial models for the data-driven legal regulatory reform.

Based on the costs derived from these models, the Board will be looking for methods to bootstrap the costs of data-driven legal regulatory reform from participant funds and a totally volunteer workforce, rather than following a model of lab management supplied by WSBA.

Note that this does not mean that data-driven legal regulatory reform would not use any WSBA funding. As a Supreme Court board charged with the responsibility to manage the data-driven legal regulatory reform processes, such a board would still be administered by WSBA per the Task Force Administering Xenial Involvement with Court Appointed Board's (TAXICAB) recommendations to WSBA Board of Governors. As such, a similar amount of funding to that provided the Practice of Law Board is still anticipated to provide the new board with TAXICAB-based WSBA staffing and administrative support.

For the last year, the Board has also met with stakeholders to present information and gather feedback and input about the data-driven legal regulatory reform, including the WSBA Family Law Section Executive Committee (FLEC), the WSBA Solo & Small Practice Section, and the Domestic Relations Attorneys of Washington (DRAW)<sup>3</sup>. The Board also spoke at various conferences and CLEs, at Washington State law schools, with Lucy Ricca, Stanford Law's Director of Policy and Programs for the Deborah L. Rhode Center on the Legal Profession and advisor the Utah Office of Legal Services, with former Chief Justice Himonas of Utah, as well as with many online legal service providers.

The Board has also strived to keep its peer Access to Justice and LLLT Boards, and the Board of Governors and members of WSBA apprised of the Board's plans.

## **8.0 Other Matters**

### **8.1 ETHOS**

The Board was an active participant in the WSBA meetings and hearings related to Examining the Historical Organization and Structure of the Bar (ETHOS). A representative of the Board was present for at least part of all the meetings.

The Board takes a strong interest in this work and is supportive of the majority opinion that an integrated bar is best for the people, and the legal professionals in Washington State.

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<sup>3</sup> DRAW broke away from WSBA Family Law sections after the Limited License Legal Technician [LLLT] program was authorized by the Court.

## 8.2 TAXICAB

The Board was an active participant in the meetings of the WSBA Task Force Administering Xenial Involvement with Court Appointed Boards (TAXICAB) meetings. A representative of the Board was present for at least part of all the meetings, and the Board took a leadership role in producing a draft document to drive the discussions.

The Board takes a strong interest in this work and is supportive of documents created to define what it means to be administered by WSBA.

## 9.0 Workplans

### 9.1 Educate

The current plan for the [Legal Checkup is available at the WSBA website](#).

In fiscal year 2023, the Board hopes to:

1. Look into translating the first version of the Legal Checkup to other languages.
2. Approach law and public libraries throughout the state to make the Legal Checkup available in their branches.
3. Work on the online version of the Legal Checkup (the Legal Checkup BOT).

### 9.2 Innovate

The current plan for [data-driven legal regulatory reform is available at the WSBA website](#).

In fiscal year 2023, the Board hopes to:

1. Finalize a data-driven legal regulatory reform blueprint and recommendation for the Court.
2. Prepare draft court orders to accompany and enact data-driven legal regulatory reform per the blueprint.
3. Propose change to GR 25 to require involvement of the Practice of Law Board with any other board or agency enacting innovation for the first year.

### 9.3 Coordinate

Although there is no formal plan for coordination with the appropriate authorities for UPL complaints, the Board plans to continue to work with the AGO and county prosecutors to improve the process and to educate the public so they understand when and how to report UPL matters.

In fiscal year 2023, the Board hopes to:

1. Hold another meeting with interested agencies (Attorney General's Office, county sheriffs, and county prosecutors on UPL in Washington).
2. Draft a survey on UPL in Washington State, including a review of statutes, court rules and orders, jury instructions, and common law.

3. Revise UPL reporting process to including sheriffs and collect better documentation of the alleged complaint.
4. Update GR 24 to align with changes to the RCW regarding who can assist with representation at a domestic violence order hearing.

**9.4 Diversity and Inclusion**

The following diversity and inclusion information was supplied by WSBA.

<b>Practice of Law Board</b>		
<i>Provided by WSBA Staff</i>		
<i>Dated October 25, 2022</i>		
<b>FY22 Demographics:</b>		
The WSBA promotes diversity, equality, and cultural competence in the courts, legal profession, and the bar, and is committed to ensuring that its committees, boards, and panels reflect the diversity of its membership.		
Aside from the factors marked (*), demographic information was provided voluntarily, and individuals had the option to not respond to any or all of the factors below.		
<b>Disability</b>	No	71%
	Yes	21%
	Chose Not to Respond	8%
<b>District*</b>	1	43%
	5	7%
	8	7%
	9	7%
	Unknown	36%
<b>Ethnicity</b>	Asian – East Asian	7%
	Black, African American, or African Descent	14%
	White or European Descent	79%
	Multi Racial or Biracial	7%
	Chose Not to Respond	0%
<b>Gender</b>	Female	43%
	Male	50%
	Chose Not to Respond	7%
<b>Sexual Orientation</b>	Heterosexual	86%
	Chose Not to Respond	14%
<i>The Yes/No response for the Sexual Orientation category is data from a previous demographic question ‘Do you open identify as a sexual minority to include the following: gay, lesbian, bisexual, transgender?’ This question was on the volunteer application when some of the current members submitted their application and therefore, is still included.</i>		

## **10.0 Long-range Workplans**

### **10.1 Educate**

1. Post first version of the Legal Checkup to other channels (social media).
2. Work on second edition of the Legal Checkup.

### **10.2 Innovate**

1. Begin work on another area of innovation.

### **10.3 Coordinate**

1. Continue to evaluate and refer complaints of UPL and educate the public on this issue.
2. Work to ensure people know how to complain and that complaints are timely referred to the appropriate authority.

### **10.4 Diversity and Inclusion**

1. Continue to work with WSBA staff to diversify the Board per the letter to the Supreme Court.

## **11.0 Budget**

For fiscal year 2022, the budget for the Board was \$12,000 in direct expenses and \$72,486 in indirect expenses. After the budget reforecast in the Spring of 2022, the budget was revised as follows: direct expenses were budgeted at \$12,000 and indirect expenses at \$67,261.

The Board did not use any of its budgeted direct expenses as all its meetings were held virtually, and the Board works hard to ensure it is not wasting resources. However, the Board likely overused indirect expenses. The Board has asked a lot of WSBA staff, and often the Board needs legal advice and research from our legal counsel and paralegal resources.

## **12.0 Acknowledgments**

It must be acknowledged that the Board's public (non-legal professional) and legal professional members volunteer significant amounts of their time to performing the duties and responsibilities of the Board.

The Board especially wants to acknowledge and thank the Board's former public members Brooks Goode and Mir Tariq for their service to the Board and the community. The Board benefited greatly from their insights and contributions.

The Board appreciates the time and guidance that the Justices of the Supreme Court have given the Board so that the Board can do the work of the Board and represent the Court and the judiciary positively in the view of the public.

The Board wants to acknowledge the hard work of Paralegal Kyla Reynolds, Assistant General Counsel Thea Jennings, General Counsel Julie Shankland, Chief Equity and Justice Officer Diana Singleton, Director of Advancement Kevin Plachy, Chief Regulatory Counsel Renata de Carvalho Garcia, Chief Disciplinary Counsel Douglas Ende, Chief Communications and Outreach Officer Sara Niegowski, Graphic Designer Jim Hanneman (for his work creating the Board's Logo), and Executive Director Terra Nevitt for their support of the Board, and their day-to-day contributions to the Board's work. Without their assistance and guidance, the Board could not have accomplished its goals.

Governor Sunitha Anjilvel and Governor Jordan Couch have also helped support the Board, especially in keeping the Board of Governors up to date on the Board's work and helping the Board understand diversity and inclusion.

The Board also wishes to acknowledge the work of WSBA's Former Past-President and Governor Kyle Sciuchetti and Immediate Past-President Brian Tollefson for their work on the TAXICAB and ETHOS, both of which are important to the Board.

Finally, the Board wants to thank the Court staff, particularly Ms. Lipford for helping us communicate with the Court, schedule meetings, and distribute the Board's work product to the Justices of the Supreme Court, and to the Justices for being gracious and in offering their feedback, guidance, and direction to the Board.