

# EXHIBIT 80

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After conducting an end-of-the-year audit, McNeice Wheeler said they discovered several suspicious charges totaling nearly \$4,000 on the firm's credit card. The partners confronted Haynes about the charges.

After a string of misleading responses, she eventually admitted about \$3,500 were charged for personal use, and the remaining amount for work expenses, according to court documents.

Witherspoon Kelley Law Firm told police she used the same tactics with them. Court documents show during her time at that firm, she charged more than the firm's \$17,000 personal charges cap.

The partners told police Haynes charged nearly \$31,000 for Washington State Bar Association expenses, for which WSBA reimbursed her. But according to court documents, Haynes only gave back about \$25,000 to the firm and pocketed the remaining \$6,000.

Amanda Roley  
@KREMAmandaRoley

WSBA's youngest President to date is in hot water for allegedly stealing \$9,353.84 collectively from two Spokane law firms. @KREM2

5:19 PM · Jun 19, 2017

1 See Amanda Roley's other Tweets

Haynes told police she thought she was allowed to use the card for personal use, according to court records.

An internal memo from WSBA shows Haynes resigned from her position as president on Friday, "due to personal matters that require her attention."

President-elect Bradford Furlong will finish out Haynes' term.

Haynes now faces two counts of theft in the second degree, and one count of second degree identity theft. The search warrant will seize a long list of emails, reimbursement documentation and requests.

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## Wash. Bar Association President Resigns Amid Theft Allegations

Spokane attorney Robin Haynes resigned Sunday as sheriffs were preparing to serve an arrest warrant.

By Neal McNamara, Patch Staff 

Jun 20, 2017 2:38 pm PT

1,110 27 Share

 Reply



SPOKANE, WA - The president of the Washington State Bar Association abruptly resigned on Sunday, one day before Spokane County Sheriff's deputies were apparently set to serve a warrant for three counts of second-degree theft. Robin Haynes, 39, because the youngest-ever president of the state bar association in October.

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But according to the Spokesman Review, Haynes' attorney, Roy Umlauf of Seattle, said that he's not aware of any pending charges or warrants out for Haynes. According to KREM, two law firms Haynes formerly worked for, McNeice Wheller and Witherspoon Kelley, have accused her of using firm credit cards for personal expenses. The station reported that, in one instance, Haynes used company credit cards for about \$9,300 in personal expenses.

Meanwhile, McNiece Wheller has filed a bar complaint against Haynes. The proceedings of that complaint are not public. According to KREM, Haynes resigned from the state bar due to "personal matters that require her attention."

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In the interim, Mount Vernon attorney Bradford Furlong will take over for Haynes. The Washington State Bar Association headquarters are located in Seattle. According to the bar, Haynes currently works for a firm called GIANTLegal, which is located in Spokane. She has no disciplinary history, according to the bar.

*Image via Shutterstock*

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EXHIBIT 81

Washington Supreme Court

Sent Via Email

January 23, 2019

Dear Justices,

We, the undersigned staff of the Washington State Bar Association, are writing to follow up with you about our recent statements presented to the Board of Governors on January 18, 2019, regarding the mishandling of a sexual harassment claim. Our concerns and disapproval of the Board's handling of the situation are elaborated upon in the attached letter that we shared with the Board at their meeting. You can view the full conversation, including other thoughtful comments given by our colleagues and WSBA members, in the recording of that [meeting here](#).

We are reaching out to you today as fellow advocates of justice. Your leadership and support of Court commissions and boards help to create a more equitable justice system, center marginalized voices, and support ways that we can increase the public trust and confidence in our state's justice system. It is in the spirit of being partners in promoting equity and justice that we write to ask for your help.

It has become apparent to us that the Board of Governors is not structured properly to self-regulate harassment claims brought against one of its own members. We have witnessed what appears to be self-dealing and conflicts of interest at the expense of upholding integrity in dealing with a harassment claim that was given credibility by a third party investigator. Knowing that the Board of Governors is incapable of taking harassment claims seriously leaves the staff feeling unprotected and disrespected. This is not acceptable. With the blatant lack of appropriate anti-harassment policies in place, the safety and protection of WSBA staff now falls to the WA Supreme Court.

It is essential that this Court intervene to ensure the integrity of the legal profession and maintain a sense of confidence by the general public. A governor that has been entrusted to uphold the values of fairness and justice cannot be privy to the financial dealings of the very entity that he seeks to sue. The simple appearance of impropriety and conflicts of interest will detrimentally impact the public perception of this profession. It is essential, especially given the current state of affairs, that attorneys are viewed as advocates for justice and not as self-interested parties.

We ask that you intervene with the Board of Governors to ensure that a proper, objective and thorough anti-harassment policy is created and vetted for integrity. The policy should include provisions for when harassment claims must be resolved under the leadership of a third, objective party and include clear processes for when removal of a governor or volunteer is appropriate. The policy should have clear expectations of behavior and how to proceed when complaints are raised, including the expected recusal of parties with a conflict of interest. Please provide leadership to ensure that the Board of Governors revisit the current situation with the proper policy in place and continue to enforce the policy for any future similar situations. The Board of Governors have broken their trust with the staff of WSBA and we ask that you intervene to provide the checks and balances that we need to rebuild that trust.

Sincerely,

Bonnie Sterken  
Dana Barnett

Paige Hardy  
Robin Nussbaum

Laura Sanford  
Paris Eriksen

Kalina Spasovska	Michael Paugh	Ana LaNasa-Selvidge
Gabe Moore	Jennifer Olegario	Barbara Ochota
Russell Johnson	Pam Inglesby	Joanne Russell
Kris McCord	Tyler Washington	Emily Cioc
Colin Rigley	Joy Williams	Connor Smith
Dianne Plummer-Cranston	Patrick Mead	Diana Singleton
Noel Brady	Márgaret Shane	
Jim Hanneman	Sherry Lindner	

Enclosure: Open Letter to the Board of Governors

The Supreme Court  
State of Washington

MARY E. FAIRHURST  
CHIEF JUSTICE  
TEMPLE OF JUSTICE  
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98504-0929

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March 1, 2019

Washington State Bar Association  
1325 Fourth Avenue, #600  
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Joy Williams  
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Ana LaNasa-Selvidge  
Barbara Ochota  
Joanne Russell  
Emily Cioc  
Connor Smith  
Diana Singleton  
Jim Hanneman

Re: Allegations of hostile work environment and lack of anti-harassment policies

Dear WSBA Staff:

Thank you for your letter dated January 23, 2019, which included a copy of your January 18, 2019 letter to the Board of Governors. Your letter set forth staff concerns about how a sexual harassment complaint was handled, the lack of clear anti-harassment policies, and the lack of a clear process for reviewing this type of complaint.

On February 27, 2019, the justices met to discuss your letter and other WSBA matters. By a unanimous vote, the court is directing an investigation of the allegations of a hostile work environment at the Washington State Bar Association. The court will select an independent investigator, and it is our intent that the investigation will start soon.

WSBA Staff

March 1, 2019

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I note that the list of staff on each letter is not identical. This letter is addressed to only those staff whose name is included on the January 23, 2019 letter to the court. Of course, you can share this letter with other staff members.

Very truly yours,

*Mary E. Fairhurst*

MARY E. FAIRHURST

Chief Justice

cc: Justices

Bill Pickett, WSBA President

Paula Littlewood, WSBA Executive Director

Board of Governors

Julie Shankland, WSBA General Counsel

BETH VAN MOPPES

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December 31, 2019

**CONFIDENTIAL**

**VIA EMAIL ONLY: MARY.FAIRHURST@COURTS.WA.GOV**

Chief Justice Mary Fairhurst  
Washington State Supreme Court  
Temple of Justice  
415-12<sup>th</sup> Ave SW  
Olympia, WA 98504

Re: Summary of Investigation, Washington State Bar Association Board of Governors

Dear Chief Justice Fairhurst:

I was asked to investigate hostile work environment allegations brought against the Board of Governors of the Washington State Bar Association ("Board" or "BOG") by staff employees. Specifically, 28 Washington State Bar Association ("WSBA" or "Bar Association") employees signed their name to a January 28, 2019 letter to the Washington State Supreme Court, asserting that the Board mishandled a sexual harassment complaint brought against a Governor by a staff employee, consequentially creating a hostile work environment for them.

Over the course of this investigation, I interviewed the following 53 individuals from WSBA, listed here in alphabetical order:<sup>1</sup>

- Sunitha Anjilvel, Board Member-at-Large,
- Dana Barnett, WSBA Diversity and Inclusion Specialist
- Phil Brady, former Board Member,
- Dan'L Bridges, Board Treasurer,
- Dan Clark, Board Member and Treasurer-Elect,
- Sean Davis, former WSBA General Counsel,
- Frances Dujon-Reynolds, former WSBA Human Resources Director,

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<sup>1</sup> These titles reflect the status each witness held at the time of my interview. Some witnesses have since left the employ of the WSBA; others have had their terms on the Board expire, i.e., they have "rolled off" the Board.

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- Doug Ende, WSBA Chief Disciplinary Counsel,
- Paris Eriksen, WSBA Sections Program Manager,
- Anthony Gipe, WSBA Past-President,
- Peter J. Grabicki, Board Member,
- Paige Hardy, WSBA Public Service Specialist,
- Angela Hayes, former Board Member,
- Carla Higginson, Board Member,
- Ann Holmes, WSBA Chief Operations Officer,
- Kim Hunter, Board Member,
- William Hyslop, WSBA Immediate Past-President,
- Pam Ingelsby, WSBA Services Manager,
- Jean Kang, Board Member,
- Russell Knight, Board Member,
- Sherry Lindner, WSBA Staff Paralegal,
- Tiffany Lynch, WSBA Director of Finance,
- Rajeev Majumdar, WSBA President-Elect,
- Kris McCord, WSBA Service Center Support Representative,
- Jean McElroy, WSBA Chief Regulatory Officer,
- Patrick Mead, WSBA Section Liaison,
- Christine Meserve, Board Member,
- Felix Neals, WSBA Interim Human Resources Director,
- Terra Nevitt, WSBA Interim Executive Director, and former Senior HR Generalist,
- Sara Niegowski, WSBA Chief Communications and Outreach Officer,
- Rex Nolte, WSBA Broadcast Services Manager,
- Robin Nussbaum, WSBA Senior Inclusion and Equity Specialist,
- Barbara Ochota, WSBA Admissions Analyst,
- Athan Papailiou, Board Member,
- Michael Paugh, WSBA Service Center Support Representative,
- William Pickett, WSBA President,
- Diane Plummer-Cranston, WSBA Administrative Assistant,
- Kara Ralph, former WSBA Events and Sponsorships Specialist,
- Colin Rigley, WSBA Communications Specialist,
- Kim Risenmay, former Board Member and former WSBA Treasurer,
- Laura Sanford, WSBA Foundation Development Officer,
- Kyle Sciuchetti, Board Member,
- Margaret Shane, Executive Assistant to the WSBA ED and BOG Liaison,
- Julie Shankland, WSBA General Counsel,
- Diane Singleton, WSBA Access to Justice Manager,
- Kalina Spasovska, WSBA Human Resources Project Lead,

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- Alec Stephens, Board Member,
- Bonnie Sterken, WSBA Access to Justice Staff and Council on Public Defense,
- Sue Strachan, WSBA Legal Community Outreach Specialist,
- Paul Swegle, Board Member,
- Brian Tollefson, Board Member,
- Tyler Washington, Diversity and Member Services and Engagement Programs Coordinator, and
- Joy Williams, Diversity & Public Service Program Manager.

I was also provided and reviewed documentation and other information throughout these interviews and thereafter, including organization charts, bylaws, policies and procedures, investigation reports, e-mails, correspondence, webpages, court documents, news articles, meeting notes, as well as extensive Board and Committee Meeting minutes, from both public and Executive Sessions. These were provided by WSBA employees and Board of Governors witnesses, as well as counsel for the Bar Association.<sup>2</sup> Additionally, I watched videos of several public BOG Meetings.

#### Relevant Background Information

For context, it is necessary to understand the structure of the WSBA. All lawyers and licensed legal professionals must belong to the WSBA, under authority delegated to the WSBA by the Supreme Court of Washington. There are more than 40,000 attorneys and other legal professionals licensed in the State of Washington. The mission of the WSBA is to serve the public and the members of the Bar, ensure the integrity of the legal profession, and to champion justice.

According to the WSBA Bylaws, the WSBA is governed by a 15-member Board of Governors: 11 elected by members of the Bar Association, three “at-large” members elected by the BOG, and the President. The Board officers include: the President, who is elected by the members of the BOG, the President-Elect and the Immediate Past-President, the Treasurer and the Executive Director. The Treasurer is both a member of the Board with a vote and an officer. The Executive Director (“ED”) is “the secretary and serves in an ex-officio capacity.”

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<sup>2</sup> If information was regarding or generated from an Executive Session of the Board of Governors, or otherwise considered “Confidential” by the WSBA, I have honored that designation. Whether the law validates such designation is beyond my purview. I have thus provided this report in two formats: the first, intended only for those authorized pursuant to WSBA Bylaws for Board of Governors’ Executive Session Meetings and/or confidential WSBA documentation, and the second report with such attachments and any references thereto redacted, intended for any other audience the Court and the Bar Association deem appropriate. The former is marked, “CONFIDENTIAL: SUBJECT TO WSBA BYLAWS ON EXECUTIVE SESSION MEETINGS.” The latter is marked, “CONFIDENTIAL: REDACTED PURSUANT TO WSBA BYLAWS ON EXECUTIVE SESSION MEETINGS.”

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The BOG employs the ED who serves as chief of WSBA staff. The ED has full administrative authority to set personnel policies, to hire and to terminate the employment of staff. The ED has the final discretion on all definitions and interpretations involving the WSBA Employee Handbook. The ED also sets salaries within the budget that is set by the Board.

The BOG governs, in part, through BOG-created entities, such as committees and boards. The President of the Board appoints the chairs, co-chairs, and vice-chairs to each of these, except the Budget and Audit Committee. The Budget and Audit Committee is chaired by the Treasurer, who is elected by the Board members. Additionally, while any WSBA member can attend any of the committee and board meetings, the BOG generally appoints the “recognized” members of the committees and boards.

In addition to these entities of the BOG, the WSBA includes a multitude of sections, ranging from Administrative Law Section to the World Peace Through Law Section. The President-Elect appoints at least one Governor to act as liaison to each of the WSBA sections, as well.

It is necessary to a thorough understanding of this matter to understand that the WSBA Board of Governors is currently fractionalized, with the majority of members working in tandem at the exclusion of the remainder. This division was allegedly originally related to a difference in strategic organizational vision. Over time, and as events have caused the untimely roll-off of BOG members and a related leadership vacuum, this dynamic has devolved into what was described by one consultant, as “a hornet’s nest.” “Below the radar of the WSBA membership, the current board has divided itself into apparent factions: one is... said to be hellbent on getting their own way; the other is perceived as a band of ‘conspiratorial theorists.’ In that mix, level heads are either overpowered, disempowered, or unable to make their voices heard.” This split in the Board of Governors has created what was often referred to by witnesses as a “voting bloc.”

### Scope of Investigation

As stated above, WSBA staff employees set forth their allegations against the Board in a January 28, 2019 letter to the Washington State Supreme Court.

The scope of this investigation is to determine, on a more likely than not basis, whether a hostile work environment was created for WSBA employees by the Board’s “mishandling of a sexual harassment complaint” brought against one of its Governors. In their letter, the WSBA employees also claim that the Board lacked clear anti-harassment policies and a process for reviewing such complaints. Their letter incorporates by reference and attachment their January 18, 2019 letter addressed to the Board of Governors, signed by 34 WSBA employees, alleging that the Board created an uncomfortable, upsetting and potentially unsafe work environment for them by its management of an independent investigator’s determination of the credibility of a staff employee’s assertion of inappropriate conduct against a Board

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Member. Specifically, the January 18 letter asserts that the Board: (1) failed to take appropriate responsive steps to remediate that situation, (2) failed to recognize conflicts of interest, and (3) did not have in place or hold itself accountable to policies and procedures dictating clear expectations of behavior and processes for handling such complaints. These letters are included here as Attachment A.

In both written correspondence and interviews, various BOG members argued that this investigation's focus on the Board was misdirected. These individuals made the legal argument that such a complaint could only be made against the Executive Director of the WSBA because she alone had the authority to set working conditions for WSBA employees. I respectfully reject these attempts to change the scope of this investigation for the following reasons.

Notably, the WSBA staff employees' letters both to the Board and to the Court, address only concerns with the Board's conduct and how the Board's conduct impacted their sense of value and confidence in their workplace: "Knowing that the Board of Governors is incapable of taking harassment claims seriously leaves the staff feeling unprotected and disrespected." Additionally, EEOC Guidance on Employer Liability for Harassment clearly states that hostile work environments can result from non-supervisory employee conduct and non-employee conduct.

Further, despite numerous Board members' contentions that they have "little interaction" with most WSBA staff, and "rarely if ever" communicate with staff, I reviewed a number of emails which could exemplify the nature of those communications with staff. By way of example, on March 5, 2017, Governor Bridges sent an email to his fellow Governors Majumdar, Meserve, Papailiou, and President Pickett, stating, "In attempting to have a collaborative relationship with staff, we have created the incorrect impression it is an equal relationship. It is not. Worse, we are abdicating our role of oversight by the phrase we should 'trust' staff. [sic]" In a second example, Governor Bridges sent the following email to WSBA General Counsel on July 2, 2018:

We [the BOG] are not volunteers... Volunteers coach little league... We are the Board of Directors of the State Bar Association. Subject to a few exceptions carved out by Court Rule, (albeit discipline is a huge one we are properly firewalled from) we have ultimate authority over every aspect of the Bar Association. For efficiency, we delegate those day to day functions to staff. But that delegation is not abdication. When we ask for something, it is not a request to be accommodated. It is a directive, while hopefully always respectfully and politely made with please and thank you, to be fulfilled.

I submit that statements such as these could evidence the ability of a Governor to impact a WSBA employee's working environment.

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Additionally, I was provided a copy of the WSBA Conflict Resolution – Practices & Policy (adopted by the BOG on January 28, 2016). It states, in part, that:

A Board Member shall always be mindful that their position carries with it certain powers, influence and authority that must be exercised fairly, wisely, respectfully, and with restraint. Accordingly, a Board Member when interacting with all members of WSBA staff, shall not misuse or abuse their authority or position by placing unreasonable or inappropriate demands upon staff members.

This document, intended to be used “to guide the resolution of conflict between board members and staff members,” is included here as Attachment B. This document could be an additional piece of evidence that the behavior of the Board could impact the work environment of staff employees at the Bar Association.

Whether or not liability flows from the conduct of the Board, or the working environment they may have generated, is a legal determination outside the scope of my investigation. My scope is limited to the application of any relevant policies to findings of their conduct.

### Relevant Policies

#### WSBA Employee Handbook

At the time this complaint was brought forward, staff employees argued that there was no policy holding Board members accountable for their conduct relating to harassment or discrimination. There was no such policy or reference in the WSBA Bylaws. Several witnesses have memories of having at least been given a copy of the WSBA Handbook at the time of their New Member Orientation. No witness recalls being told that any of those policies applied to BOG members, however.<sup>3</sup>

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<sup>3</sup> At least one BOG member took issue with the allegation that there were not clear anti-harassment policies in place and set forth, in correspondence to this investigator, the existence of the various policies of the WSBA Handbook. That correspondence, with her argument at page 2, is included here as Attachment M, without enclosures. However, this BOG member makes no argument that those policies apply to BOG member conduct. She simply points to their existence.

She does argue, though, at page 4, that the BOG Policy Manual dictates that these staff complaints should have first been brought to the attention of the ED and that the ED, in turn, should have brought them to the attention of the BOG President. However, in the January 18, 2019 BOG Meeting, it is stated *and emphasized* by multiple Governors that the BOG was informed on more than one previous occasion that staff employees were upset about the handling of Ms. Ralph’s claim. In fact, in the video of that Meeting, only the author of this letter insists she was told only *once* that the WSBA employees were upset over Ms. Ralph’s treatment.

Nonetheless, for diligence's sake, the language of the WSBA Employee Handbook is worth reviewing. It is noteworthy that, in addition to its actual title, the introduction of the Handbook is specifically addressed "To All Employees." However, the "Sexual and Other Harassment" policy therein states that it *applies* "not only to interaction between WSBA employees, but also to interaction between WSBA employees and WSBA members, vendors, visitors, and other non-employees who conduct business with the WSBA."

It is unclear from this language, though, whether this policy is meant to *protect* employees *from* conduct *with* these other individuals or as an umbrella policy to both *regulate and protect* all individuals who conduct business with the WSBA. The more logical arguments support the former as the case.

This is true in the context of the organizational structure of the WSBA as set forth above. The BOG is subject to the plenary authority and supervision of the Washington Supreme Court and to limitations imposed by statute, court rule, court order, and case law. BOG members are not subject to the authority of the Executive Director of the Bar Association, though the ED has the final authority on all definitions and interpretations involving the WSBA Handbook. In other words, while the ED has authority over the application of the Handbook, the ED has no authority over any member of the BOG.

Looking to the Handbook itself for contextual arguments, it is again logical that this policy is solely intended to protect the employees from individuals with whom they come in contact in the course of their employment. For example, the salutation and the at-will employment statement within the Handbook address and pertain only to WSBA employees. Additionally, the Handbook is largely made up of practical policies and information necessary and helpful to employees on a day-to-day basis (e.g., employment basics such as the classification of employees, work schedules, rest periods, and time reporting systems; compensation policies related to overtime and the compensation plan; employee relations policies related to diversity, the employment of relatives and personnel records; employee responsibilities such as personal appearance, the use of organization vehicles, and standards of conduct; employee change of status; safety and security; and benefits). Perhaps most telling, however, is the final page of the Handbook, the Employee's Statement of Understanding, which is signed by every WSBA employee and retained in their personnel file.<sup>4</sup>

Based on this review of the Bar Association's organizational structure and the larger context of the Handbook, I conclude that this "Sexual and Other Harassment" policy did not apply to the Board at the

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<sup>4</sup> No equivalent process for acknowledgement of receipt and understanding of the Handbook exists the Board members.

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time either Ms. Ralph's issue of inappropriate conduct was brought forward or the staff's allegations of hostile work environment were made.<sup>5</sup>

#### Board of Governors' No Retaliation Policy

However, on or about September 21, 2018, prior to the complaining letters of the WSBA employees, the State Supreme Court directed the Board to adopt a No Retaliation Policy. The BOG did this on January 18, 2019, in the same BOG Meeting as the WSBA employee letter was addressed to them.

That January 18, 2019 policy includes the following language:

##### **Purpose**

The Washington State Bar Association ("WSBA") is firmly committed to maintaining a safe environment that encourages its employees and members of the Board of Governors ... to speak up about sexual discrimination or other harassment without fear of retaliation. ...

##### **Scope**

This Policy applies to all WSBA employees and prospective, current, or former BOG members and other WSBA volunteers ... ("volunteers"). ... WSBA Employees are subject to provisions under the employee handbook policy on "Standards of Conduct and Discipline" and "Sexual and Other Harassment Policy" as determined by the Executive Director. ...

##### **Reporting Complaints**

... Appropriate action will be taken against a volunteer who is found to have engaged in prohibited harassing or retaliatory conduct, up to and including removal from the volunteer position as determined in accordance with the WSBA Bylaws and/or Washington Supreme Court rules.

##### **Filing False Reports**

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<sup>5</sup> Interestingly, the June 19, 2019 version of the New Governor Orientation materials included correspondence from Felix Neals, Interim Human Resources Manager, informing the new BOG members that: "As a volunteer on the Board of Governors and representative of the WSBA, you are under the same obligation as our staff members to uphold these values in carrying out your duties. Please review the attached policy which outlines your responsibilities under our policy." That correspondence and policy were issued after the commencement of this investigation. I'm unaware of such a memo or policy being provided to seated BOG members.

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False and malicious complaints or harassment, discrimination or retaliation (as opposed to complaints that, even if erroneous, are made in good faith) maybe the subject of appropriate action.

All WSBA employees and volunteers are required to cooperate with investigations undertaken in response to a complaint under this policy. In particular among other things, WSBA employees and volunteers are required to make themselves available to investigators immediately upon request, be forthcoming and truthful with investigators, and provide complete and accurate information. ...

This policy states as its goal the enabling of reports of harassment by preventing retaliation against reporters. It further states that *employees* are subject to both this policy *and* the Harassment Policy set out in the Employee Handbook. By noting the employees' obligation to comply with the Harassment Policy in the Handbook, and not the BOG members, it seems to be specifically declining any Board members' obligations thereto. Either way, it is not an anti-harassment policy for BOG members setting out what is prohibited or offensive conduct, how offensive conduct should be reported and/or how the Board will act in response to any complaint regarding such conduct. Most relevant to the WSBA employees' complaint, there is no policy or language reassuring complainants or guiding the Board on preventive and remedial action.

#### EEOC Guidelines on Harassment

In the absence of an employer's own applicable harassment policy, it is necessary to turn to the EEOC Policy Guidance on Current Issues of Sexual Harassment. Pertinent to these allegations, Policy Guidance on Preventive and Remedial Action states that an effective preventive program should include an explicit policy against sexual harassment that is clearly and regularly communicated to employees and effectively implemented. An employer should "affirmatively raise the subject with all supervisory and non-supervisory employees," ... "and explain the sanctions" for any policy violation. The program "should ensure confidentiality" to the extent possible and "provide effective remedies."

On the relevant topic of remedial action, EEOC Guidance states that, because Title VII "affords employees the right to work in an environment free from discrimination, intimidation, ridicule and insult," it is an employer's duty "to remedy known hostile or offensive work environments." "Employers have an affirmative duty to eradicate hostile or offensive work environments."

When an employer learns of, or after a thorough investigation determines the existence of, a hostile or offensive workplace,

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The employer should take immediate and appropriate corrective action by doing whatever is necessary to end the harassment, make the victim whole by restoring lost employment benefits or opportunities, and prevent the misconduct from recurring. Disciplinary action against the offending supervisor or employee, ranging from reprimand to discharge, may be necessary. Generally, the corrective action should reflect the severity of the conduct. ... The employer should make follow-up inquiries to ensure the harassment has not resumed and the victim has not suffered retaliation.

When an employer asserts it has taken remedial action, the Commission will investigate to determine whether the action was appropriate, and, more important, effective. ... If the Commission finds that the harassment has been eliminated, all victims made whole, and preventive measures instituted, the Commission will normally close the charge because of the employer's prompt remedial action.

It is this EEOC Guidance that applies to this investigation's factual findings to determine whether the Board appropriately handled this situation, and whether the Board took steps to end any allegedly offensive conduct, and effectively prevent it from recurring.

#### Summary of Findings and Determinations

WSBA staff employees assert that they have been subjected to a hostile working environment created by: (1) the Board of Governor's lack of clear anti-harassment policies and process for reviewing such complaints, (2) the Board's mishandling of a sexual harassment complaint brought against one of its Governors, (3) the Board's failure to take appropriate responsive steps to remediate that situation, and (4) the Board's failure to recognize conflicts of interest. I will address each of these allegations in turn and why I have concluded, on a more likely than not basis, that the working environment for the WSBA employees was hostile, intimidating, and insulting, as a result of the Board's failures.

#### Credibility Determinations

Where allegations such as these implicate the statements of witnesses against others, the credibility of each witness must be considered. Investigators often find themselves having to weigh the credibility of one witness's statement against another. This may occur when there are a limited number of people who observe an event, when those individuals provide divergent accounts of the events, or/and when there is no other way to resolve competing versions.

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According to Equal Employment Opportunity Commission Policy Guidance, “If there are competing versions of relevant events,” the investigator “will have to weigh each party’s credibility. Credibility assessments can be critical in determining whether the alleged harassment in fact occurred.” EEOC Guidance also states that the Commission may “make a finding of harassment solely on the credibility of the victim’s allegations.”

As with any other charge of discrimination, a victim’s account must be sufficiently detailed and internally consistent so as to be plausible, and lack of corroborative evidence where such evidence logically should exist would undermine the allegation. By the same token, a general denial by the alleged harasser will carry little weight when it is contradicted by other evidence.

EEOC Policy Guidance on Current Issues of Sexual Harassment, N-915-050, March 19, 1990. It further references the need for the investigator to “search thoroughly for corroborating evidence of any nature.”

There are eight credibility factors an investigator may use to weigh the testimony of one witness against another. It is not necessary to use all these factors in every instance where a credibility determination needs to be made, and, in some investigations, no credibility determination is necessary at all. The eight factors for consideration include: (1) the witness statement’s consistency with other evidence, (2) the consistency of the witness’s statements, (3) the plausibility or implausibility of each witness’s account, (4) the witness’s reputation for honesty or deceit, (5) the witness’s motivation to lie, (6) the witness’s opportunity and capacity to observe, (7) the witness’s admission of untruthfulness, and (8) the witness’s demeanor while testifying.<sup>6</sup>

The factual underpinnings of this investigation are mostly uncontested and those credibility issues that do need to be determined center around motivation. The crux is whether each Board member’s motivation falls within one of the staff’s allegations. Thus, I will consider the issues of credibility as they arise within each specific allegation.

### **Factual Findings and Determinations**

Based on the information gathered via these interviews and the review of this documentation and information, I have determined that the following findings of fact occurred on a more likely than not basis. I present these here for review and consideration.

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<sup>6</sup> S. Woolley, “*Making Credibility Determinations*,” Association of Workplace Investigators Training Institute materials, Supplement, <https://cdn.ymaws.com/www.awi.org/resource/collection/B3103F98-2511-4D7E-B8A8-31E3B02583DF/Module%207%20%20Supplement%20to%20'Making%20Credibility%20D.pdf>

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The Barron Report

On or about July 16, 2018, an independent third-party investigator and attorney, Jillian Barron, having been hired by the WSBA, completed her investigation and report on an allegation of “unwanted personal attention” against then-Governor-Elect Dan’L Bridges, brought by WSBA staff employee, Kara Ralph (“Barron Report”). The Barron Report concluded that Governor Bridges was not as credible as Ms. Ralph. Based upon the weight of this credibility determination, the Barron Report determined that Governor Bridges had, more likely than not, given Ms. Ralph unwanted personal attention. The Barron Report was silent as to whether any policy or law had been violated. Additionally, it did not address the topic of recommendations.<sup>7</sup> The Barron Report is included here as Attachment C.

The Barron Report was circulated in advance of a previously scheduled July 26 – 27, 2018 Board Meeting in Vancouver, Washington, to a limited number of Board members, WSBA employees, Governor Bridges, and Ms. Ralph. Among the confirmed recipients were President Bill Pickett and General Counsel (“GC”) Julie Shankland.

On July 24, 2018, Governor Bridges emailed some, but not all, of the BOG members. In that email, with the subject line “Personal Issue,” Governor Bridges informed these select members that allegations had been asserted against him, denied the allegations, told these Governors that the Barron Report was going to be provided via Box<sup>8</sup> and discussed in Executive Session. He stated his concern that “no one is going to have my response” when the Executive Session discussion occurred.<sup>9</sup>

Governor Bridges’s emails to these select Governors made several additional points in defense of himself including that: (1) he considered the Barron Report to be “fairly internally contradicting,” (2) the investigator had appointed herself a “human lie detector,” and (3) the Report “conveniently omits a variety of inconsistencies in Ms. Ralph’s report.” Governor Bridges also states that the Report “ultimately finds no misconduct.” This latter characterization is untrue; the Barron Report in fact determined that Governor Bridges had more likely than not committed the acts of unwelcome personal attention Ms.

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<sup>7</sup> The scope of an investigation is the purview of the entity that hires an investigator. This includes whether the investigator determines policy violations and/or recommendations for further action. As the Barron Report did not address either of these, it is probable that these were not within the scope of the investigation.

<sup>8</sup> “Box” is the on-line means by which the BOG receives confidential documents to review for Board Meetings.

<sup>9</sup> Governor Bridges also noted that the document was marked “Attorney-Client Privileged” but that President Pickett was sharing it with the entire Board, nonetheless. He highlighted that he was “deeply troubled that an officer would take it upon themselves to breach a privilege that belongs to the WSBA.” This argument was a red herring. GC Shankland addressed it in the Executive Session noting that outside counsel and the investigator intended for the report to be Confidential but not Privileged. The Report is a summary of findings; it contains no legal conclusions, advice or recommendations.

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Ralph had claimed but was silent as to whether any policy was violated. Governor Bridges's July 24, 2018 email and its attached response are included here as Attachment D.<sup>10</sup>

On the morning of July 27, 2018,<sup>11</sup> the BOG held an Executive Session Meeting in which a discussion of the Barron Report occurred. As Governor Bridges predicted, the Report itself was provided via Box to the Board members. At or around this same time, Governor Bridges's rebuttal to the Barron Report was also placed in Box so that all BOG members could review it.

During this Executive Session Meeting, GC Shankland summarized the Report's findings for the BOG. The propriety of Governor Bridges's presence at this Meeting was not discussed. Governor Bridges stated that he felt compelled to provide the Board with information not included in the Report; he said that the victim had been inebriated at the time of the alleged incident, and that she had been "oversharing" her "sexual history" with him. He also stated that he found the timing of her allegations troubling as related to his efforts to make bylaw amendments.

There was continued discussion of the points raised by Governor Bridges. GC Shankland and President Pickett attempted to refocus the discussion on the organization's duties, with the contribution of a few other Board members. Eventually, the Board decided to send a letter to Ms. Ralph stating that they had taken her complaint seriously and that they would be having harassment training soon. One Governor moved to have the Board issue a statement that they did not approve of the conduct in the Report. That motion failed with 2 voting in favor of the statement, 8 against, and 2 abstaining, including Governor Bridges. Ultimately, the Board of Governors took no action against Governor Bridges as a result of the Barron Report's determination.

#### Board of Governors' Treasurer Election

In that afternoon's public Board Meeting, Governor Bridges was elected Treasurer by vote of the Board of Governors. He ran against Governor Alec Stephens, who had been nominated by the out-going Treasurer Kim Risenmay. In keeping with the Board Bylaws on Executive Sessions, there was no mention of the allegations or findings against Governor Bridges in the discussion of the qualifications of the two candidates.

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<sup>10</sup> During our interview, Governor Bridges stated that the Barron Report said that, "no further action is required." There is no such statement in the Report. See discussion, *supra*. See also, Attachment C.

<sup>11</sup> The Board Retreat was held July 25. The Meeting Minutes note that the Board Meeting occurred July 27 – 28, 2018.

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#### BOG Remedial Action

On August 24, 2018, President Pickett, with the assistance of Governor Kim Hunter, sent Ms. Ralph a letter acknowledging that the Barron Report had “ultimately credited [her] recollection over” Governor Bridges but stating that, because it was not able to “definitively establish the facts through independent sources,” the BOG was limited in its “remedial response.” As a result, Governor Bridges would not face any discipline or consequences for his actions. This letter stated that the Board had discussed the Report at length with Governor Bridges and that they were “confident he understood the significance” and the importance of avoiding any action that could be seen as retaliatory. This letter also states that the BOG would be receiving “additional training on harassment and other EEO issues as part of our regular cycle.” That letter is included here as Attachment E.

On this same date, President Pickett sent a letter to Governor Bridges.<sup>12</sup> This letter’s stated purpose was threefold: (1) to acknowledge and confirm that the investigation regarding the “reported interaction” against him was concluded, (2) to encourage and facilitate everyone involved to move forward in a positive manner, and (3) to stress that Governor Bridges continually exercise caution and care so as to avoid any actions that might be reasonably construed as retaliatory. In our interview, Governor Bridges denied that this letter was in any way an admonishment of his conduct. That letter is included here as Attachment F.

On August 27, 2018, then-Human Resource Director Dujon-Reynolds sent a letter informing Ms. Ralph that, because the Governors are not employees of the Bar Association, the WSBA had limited remedial options available to them. That letter is included here as Attachment G.

Subsequently, President Pickett called an Emergency Executive Session Meeting. That Meeting occurred on September 7, 2018. President Pickett wanted the Board to address the lack of anti-retaliation policy holding BOG members accountable. Governor Higginson expressed concern that the BOG was discussing disciplining Governor Bridges. President Pickett clarified that “nobody was even discussing discipline.” Members of the Personnel Committee volunteered to draft a non-retaliation policy for consideration. Governor Higginson, however, stated that this offer was “unacceptable” and “ordered” these members not to take any action at next week’s Personnel Committee Meeting. That offer was rescinded, and no further action was taken.

On or about September 21, 2018, the State Supreme Court directed the Board to adopt a No Retaliation Policy.

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<sup>12</sup> The letter to Governor Bridges appears to have been written as the result of a Personnel Committee Meeting and not the BOG; it was authored by GC Shankland, Governor Hayes, and President Pickett.

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On September 26, 2018, the Board of Governors received anti-retaliation training from a third-party consultant. Another training session was provided on November 9, 2018 for those who were unable to attend the initial September session.

#### Governor Bridges's Allegations

On November 19, 2018, Governor Bridges sent correspondence to GC Shankland asserting that "the issue of an employee complaint" against him had been "stretched so far beyond the allegation" that it must be retaliation for his "legally protected whistleblowing activities." He enclosed a copy of a polygraph test that he asserted he had passed, allegedly proving that he did not commit the acts of which Ms. Ralph had accused him. This correspondence is included here, without attachments, as Attachment H.

On November 20, 2018, Governor Bridges served a Notice of Tort Claim on the WSBA written by counsel. The basis for his accusations is almost entirely unrelated to the scope of this investigation. Its focus is largely on WSBA Executive Director Littlewood and President Pickett. However, pertinent to this investigation is Governor Bridges's assertion, at page 13 of 16 therein, that the investigation into the original accusation of misconduct against him was "wholly disproportionate to what the issue was even if admitted." That letter states that, "The entire process became a subterfuge to make an ongoing attack on Governor Bridges." That letter also states that the Barron Report "determined what was alleged was not harassment, that no person (female staff or Governor) ever witnessed Governor Bridges engage in a single inappropriate act his entire time with the Board, and concluded that no action should or need be taken." In fact, all three of these assertions are false.

As stated above, the Barron Report makes no determination of law or policy related to harassment. Second, the investigator of the Barron Report states that, "the small group of witnesses I interviewed ... identified no similar conduct by Mr. Bridges toward other WSBA staff or Governors." Finally, as previously stated, the Barron Report is silent as to the topic of the necessity of future action. Counsel's correspondence to the WSBA is included here as Attachment I.

In early December of 2018, WSBA learned that counsel for Ms. Ralph had served a Notice of Tort Claim on the WSBA. In response, on or about December 7, 2018, Governor Bridges spoke with the media. He is quoted as saying that, at the original incident between them, Ms. Ralph had "overshared" about her personal life making him uncomfortable, that her claims were uncorroborated, and that she was motivated to illegally retaliate against him for issues related to WSBA internal politics and his protected activity.

While some of the employees had knowledge of Ms. Ralph's situation from personal conversations with her, many, if not most, of the WSBA staff employees I interviewed did not become aware of the ongoing situation until this December 7, 2018 news article was published. Further, that article included hyperlinks

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to the Barron Report, Ms. Ralph's tort claim, Governor Bridges's lie detector test results, and his own tort claim, providing the staff employees with a fuller picture of circumstances and the Board of Governors' conduct.

Subsequently, additional counsel for Governor Bridges, Shellie McGaughey,<sup>13</sup> sent correspondence to Ms. Ralph threatening to countersue her if she brought claims against Governor Bridges in court.

January BOG Meeting: WSBA Staff Complaints

On January 17, 2019, at 3:06 p.m., five WSBA staff employees began circulating an open letter addressed to the Board, inviting other signatures. That email stated that, "In light of recent events regarding the sexual harassment allegations brought against a current member of the Board of Governors, many staff have expressed dismay and discomfort with how the situation was handled by the Board of Governors." The email invited their WSBA colleagues to sign the letter and also set out their intent to present the letter at the BOG meeting at 8:00 a.m. the next morning. This email is included here as Attachment J.

At 8:00 a.m. the next morning, on January 18, 2019, a group of WSBA staff employees appeared at the public Board of Governors Meeting in Seattle, wearing red string around their arms to show their solidarity. Five of these employees divided up this letter and each read a paragraph aloud addressing the Board.

In part, this letter states, "From our perspective, a colleague disclosed an allegation of harassment by a board member and the board's response to that disclosure resulted in a process that lacked proper oversight, transparency, and consideration of our colleague's safety and well-being." The letter asserted that the BOG had failed to hold itself accountable when it not only failed to remove or censure Governor Bridges but had then promoted him to the position of Treasurer. It further requested that the Board: (1) review and create policies and processes for such situations, including setting forth clear expectations of behavior and guidelines for how to proceed when such complaints are raised, (2) hold itself accountable for the mismanagement of the process with regards to Ms. Ralph, and (3) revisit this situation with a proper procedure in place. The letter was signed by 34 WSBA staff employees.

One Board member responded stating that the Board would have to take it up in Executive Session. The Board then allowed the next public audience member to address the BOG. However, eventually, an audience member brought to the Board's attention that their response to the staff's complaint of a lack of process transparency was to use Executive Session as a shield to determine how to answer. Thereafter, various BOG members acknowledged that they had been told on multiple occasions that WSBA staff was upset by how this matter had been handled.

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<sup>13</sup> Ms. McGaughey is also Governor Bridges's wife.

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A WSBA audience member asked if the BOG would be willing to temporarily remove Treasurer Bridges until the two claims involving him had been resolved. This matter was moved and seconded for discussion. Before it could be voted upon, another BOG member asked Governor Bridges to voluntarily step down as Treasurer so that this matter could be put to rest. Governor Bridges declined to step down for a number of reasons, specifically stating that doing so would negate the process. There was thereafter discussion by the Board Governors, Bar members and WSBA staff, about the process that the BOG had used to respond to Ms. Ralph's situation and the investigation itself. There was also discussion about the merits of the Barron Report. One member highlighted for discussion, and for Treasurer Bridges, the appearance of impropriety in his involvement in the resolution of the outstanding claim while simultaneously holding the position of Treasurer when he had control over the organization's purse strings. Eventually, the Board voted to "suspend" Governor Bridges from the position of Treasurer until the two claims involving him were resolved.

On January 23, 2019, 28 WSBA staff employees signed a second letter directed to the Washington State Supreme Court Justices. The employees asked that the Court "intervene with the Board of Governors to ensure that a proper, objective and thorough anti-harassment policy is created and vetted for integrity." As stated above, that letter incorporated, by reference and inclusion, the January 18, 2019, letter. *See Attachment A.*

On January 31, 2019, Governor Bridges sent an email to Chief Justice Mary Fairhurst providing a copy of a January 31, 2019 supplement to his original whistleblower notice. Only a portion of the email and the whistleblower notice supplement are relevant to this investigation and thus bear commenting. The relevant portion of these documents, addressing "the staff member's complaint," again mischaracterize the findings of the Barron Report. Specifically, Governor Bridges's email to Chief Justice Fairhurst states that the Report "concluded there was no harassment, hostile work environment, that no law much less WSBA rule was broken, and recommended no action was necessary much less punitive action warranted." Additionally, the attached supplemental whistleblower notice states that the Barron Report "found no violation of any WSBA rule, law and she specifically found no sexual harassment or a hostile work environment." The letter also states that the Report "recommended no punitive, or any action against Governor Bridges, was justified much less appropriate." *See discussion, infra.* Governor Bridges's January 31, 2019 email to Chief Justice Fairhurst and its enclosure are included here as Attachment K.

The Washington State Supreme Court subsequently wrote a March 3, 2019 letter informing the WSBA staff employees who had signed the January 28, 2019 letter, that the Court was directing an investigation of their allegations of a hostile work environment. This letter is included here as Attachment L.

On March 5, 2019, several WSBA staff employees compiled and provided to the BOG, written "materials related to the discussion of the Board of Governors No Retaliation Policy." These materials included

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talking points related to the subject of the BOG's alleged conflict of interest when making determinations about members of their own Board and extensive model sexual harassment policies and harassment investigation procedures. These were submitted to augment the discussion of the No Retaliation Policy on the agenda at the Board's March 2019 Meeting.

In a subsequent Personnel Meeting, one of the Governors referred to these materials as "too much," "impossible," and "ridiculous." This same Governor mentioned that the staff had provided "86 pages" a minimum of four times in the same meeting. Staff members involved in the work of providing these materials were offended by these comments and felt that their contribution was not valued. Their efforts had been intended to assist the Board in creating a No Retaliation Policy that addressed the issues of conflicts of interest.

#### March BOG Meeting: Bridges Reinstated as Treasurer

The Board of Governors held a regularly scheduled meeting on March 7, 2019, in Olympia. Some WSBA staff employees took time off from work to be there. At the outset of this meeting, one WSBA audience member reminded these WSBA employees that they were at-will employees and that they should "be careful" what they say. Another asked if they were there to "harass" Governor Bridges again. Both these comments were perceived as threatening by the WSBA employees who were present. Further, after making their respective statements, each of these individuals moved to speak to Governor Bridges, and pointedly looked in the direction of the staff members seeming to be talking about them.

During the public comments section of this March 2019 BOG Meeting, a few staff employees raised concerns regarding the termination of ED Paula Littlewood by the BOG. They discussed their apprehensions with the lack of transparency in the BOG's process handling the situation involving Ms. Ralph and now in the termination of ED Littlewood. WSBA audience members also stated their concern that the termination of the ED had occurred the evening before the January 18 BOG Meeting, in a private Executive Session Meeting.<sup>14</sup> To "satisfy" these concerns, the BOG voted again on the issue of ED Littlewood's employment and the majority again approved her termination, this time in public session.

The Board then considered the WSBA employees' suggestion to adopt a more comprehensive anti-harassment/no-retaliation policy with clearly defined accountability processes and procedures for

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<sup>14</sup> In fact, approximately eight members of the BOG met for breakfast in advance of that January 17 Executive Session Meeting to plan how they would run the Executive Session Meeting and accomplish the termination of ED Littlewood. At breakfast, it was decided that Governor Brian Tollefson would announce that he had an emergency issue that required all WSBA staff to leave the Meeting. Once that occurred, Governor Tollefson would turn over the floor to Governor Kim Hunter who would then move to terminate ED Littlewood's employment effective immediately. The votes to ensure the success of the motion were pre-determined.

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managing conflicts of interest, specific to Board-member and volunteer behavior. The Board asked its Personnel Committee to keep working on the policy and come back with a recommendation.

At this point, the topic of the Board's suspension of Governor Bridges from his position as WSBA Treasurer pending resolution of current litigation matters related to him was raised. Governors argued that this action had not been within the authority of the Board, based on their review of the Bylaws and despite the advice of GC Shankland. These same Board members voted that they could only remove and then replace an officer with a 75 percent vote; they could not "suspend" an officer. This vote declared January's action to be void, such that Governor Bridges was reinstated as Treasurer. The Board then voted to exclude Governor Bridges from any discussion or action involving litigation matters related to him moving forward and to initiate an investigation into his claims of retaliation.

#### Other Concerns

Since the outset of 2019, between 12 and 15 employees have resigned their employment from WSBA. Some of these had been employed by the Bar Association for more than a decade, some even longer. Many of those to whom I spoke told me that their resignations were directly related to the BOG's failure to properly handle the situation with Ms. Ralph; others were displeased with the termination of ED Littlewood. Additionally, the backdrop of the cantankerous relationship between the various Governors and the way those Governors treated the staff employees played a large role in their decision. Not one told me that they had left or were leaving for reasons unrelated to the Board of Governors.

I also heard from many employees that they dislike the way they are treated by various members of the Board of Governors. They feel patronized, disrespected, and bullied by multiple members of the BOG. Multiple employees told me that Board members have an obvious lack of trust of the WSBA employees. They are additionally appalled by the manner in which they witnessed these Governors treat GC Shankland, ED Littlewood, Ms. Holmes, Ms. Niegowski, and Ms. McElroy, among others.

They further expressed how upset they are by the way the Governors treated one another. They are highly disturbed by the lack of professionalism between the members of the Board, the purported leaders of the Bar Association. Most of them told me that they watched the Board Meetings either in real time or on video, often during their lunch breaks. In particular, employees called out Governors Bridges, Swegle, Hunter, and Higginson, as among the worst actors.

Some employees expressed apprehension to me that Governor Bridges would not be "going away" even after his term as Governor ended. In fact, though Governor Bridges rolled-off the Board in October of 2019, President-Elect Rajeev Majumdar has appointed Governor Bridges to both the Member Engagement Workgroup and the Charter for the Civil Litigation Rules Revision Workgroup. As a result, Former Governor Bridges will continue to interact with WSBA staff employees.

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Multiple staff employees described to me various manifestations of the stress they have experienced since learning of the manner in which the BOG handled the Barron Report. They reported a loss of sleep, distraction from their duties, lack of motivation and energy. While Ms. Ralph remained employed at the WSBA, many of the other employees were affected by observing her distress, as well. Some described themselves as “outraged;” others said they were “disappointed in every single one of the Governors.” At least one employee said that they felt “unsafe” and explained that they wondered what good it would do to make any complaint against any Governor if there was no means of holding them accountable.

### **Allegations and Findings**

#### **Board of Governors Anti-Harassment Policy**

It is clear that the Board did not have an effective preventive program in place at the time of the WSBA staff employees’ complaint, let alone at the time Ms. Ralph’s situation was brought forward. As set forth in the EEOC Policy Guidance, an effective preventive policy should include an explicit statement against sexual harassment that is clearly and regularly communicated and effectively implemented. An employer should “affirmatively raise the subject with all supervisory and non-supervisory employees,” ... “and explain the sanctions” for any policy violation. The preventive program should also provide for an effective investigation process and effective remedies.

No such policy has existed for the Board or existed at the conclusion of this investigation. While the New Member Orientation materials have, as stated previously, put forth the WSBA Employee Handbook Sexual Harassment policy, there is no record of the BOG having adopted that policy for itself. In fact, despite the situation involving Ms. Ralph and the concerns and complaints of the WSBA staff employees, the Board has not managed to adopt an anti-harassment policy or give any meaningful consideration to the staff employees’ suggestions regarding the handling of conflicts of interest related to their anti-retaliation policy.

#### **Preventive and Remedial Actions/Response to The Barron Report**

The purpose of an independent investigation is to avoid any conflict of interest or even any appearance of conflict of interest. Bringing in an unbiased individual with expertise in conducting workplace investigations, such as Ms. Barron, ensures that the investigation will meet the standards set forth by the EEOC, the Association of Workplace Investigators, and required by law.

In a situation as complex as this one, where one Governor of the Board is accused of misconduct, where that Governor is a member of the majority voting bloc, and where that Governor is considered by some to have engaged in protected activities, there is no other way forward to avoid the appearance of a conflict

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of interest but the use of a third party investigator. I further submit that any action or response other than reliance upon that investigator's determination is tainted with the appearance of a conflict of interest.<sup>15</sup> Here, the BOG's actions polluted the process at nearly every turn.

First, the Board took no steps to minimize the conflicts of interest inherent in policing one of its own Governors. Instead, Governor Bridges was apparently given free rein to compromise the process. For example, Governor Bridges lobbied those certain Board members he felt he could sway two days before they were provided the Barron Report in the July 26 Board Meeting.

I asked nearly every witness for an admitted laundry list of documents in preparation for our interview. Governor Bridges was kind enough to provide cover correspondence with his production, informing me that he had "spent upwards of a full week – and by that I do not mean snippets of time spent over the course of a week – I mean 40 hours of more, responding to your requests." He also "confined" himself to his "sent" email box, at my suggestion. That correspondence is included here as Attachment N. Yet Governor Bridges did not produce even one copy of the email he sent to his colleagues in advance of the July 26 Board Meeting.

However, I was provided a copy of Governor Bridges's email by more than one Board member. Because others *did* produce it, it is known that in that email he said that he "would prefer to call" but did not believe they could have a "meaningful" conversation while driving. He further stated that "Bill [Pickett] intends on introducing [the Barron Report] during executive session." See Attachment D. So, Governor Bridges sent his colleagues this email and also sent his "response" that was uploaded to Box two days later. Notably, in our interview, Governor Bridges told me that he "had no chance to talk with anyone" between the time the Barron Report was provided to him and the Executive Session Meeting.

Once the Executive Session began, no member of the Board asked Governor Bridges to recuse himself for the discussion of the BOG's duties and responsibilities. Instead, Governor Bridges told me that, while he abstained from voting, he "thought it was an important chance to say something." He also stated to me that, "other than defending himself, he did not really say much."

On this point of defending himself, it is important again to note that Governor Bridges's "Response" to the Barron Report, his cover email, and his statements during this Executive Session and frequently thereafter, have misquoted the Barron Report's findings. He inaccurately quotes the Barron Report as

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<sup>15</sup> Many of the BOG members stated that they need not assume the Barron Report was accurate, that they could substitute their own judgment for that of the investigator. They also opined that the conduct Governor Bridges was found to have committed did not reach the level of sexual harassment and so they were not required to take any action against him.

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saying that, “no misconduct occurred.” In fact, even in our interview, Governor Bridges insisted that the Report states that “no further action need be taken.” There is **no** such statement in the Barron Report. The fact that the BOG permitted Governor Bridges to remain in the room, to defend himself both verbally and in writing, and to “**misstate**” the Report’s findings, is egregious.

In response to Governor Bridges’s lobbying, and that of his cohorts on his behalf, the BOG determined it appropriate to send Ms. Ralph a letter informing her that they took her complaint seriously. This letter also told her that they had discussed the Barron Report with Governor Bridges and, while he disagreed with most of the Report, they were confident he understood the seriousness of the issues.<sup>16</sup> Further, they informed Ms. Ralph that Governor Bridges and the entire BOG would soon be going through anti-harassment training as part of their regular cycle. It is doubtful that this letter corrected the effects of Governor Bridges’s conduct upon Ms. Ralph, if that was the BOG’s intent, so as to comply with EEOC Policy Guidance.

The Barron Report determined that Governor Bridges had given unwanted personal attention to an employee of the WSBA. The BOG, as the entity to whom Governor Bridges answers, had a responsibility to take remedial action against him. That action did not need to be a condemnation of his conduct, as at least one member of the Board had the courage to suggest, but at the very least there should have been correspondence to him that said this conduct, if it happened as the Report concluded, was unacceptable. Instead, this BOG decided to do nothing; the Board took absolutely no remedial action against Governor Bridges as a result of the Barron Report’s determination.

The BOG’s assertion in President Pickett’s letter to Ms. Ralph that they, and Governor Bridges, would be participating in anti-harassment training in their regular course, cannot be considered preventive and remedial action. Records show that the Board has had such training at least annually as far back as 2016. The training in 2018 was not responsive to Ms. Ralph’s concerns; it was regularly scheduled training.

The BOG did have anti-retaliation training in September of 2018. However, any argument that this training was “preventive and remedial action” in response to Ms. Ralph’s claim of inappropriate conduct, misses the point. Preventive and remedial action to cure harassment is not training managers on how to avoid retaliating against a complainant for bringing a claim of harassment. Anti-retaliation training does not generally cover training that will prevent harassment from occurring, as any definition of “preventive” would require. Anti-retaliation training relates to the type of illegal conduct that occurs *after* the complaint of harassment has already happened. In response to a harassment complaint, anti-retaliation training is merely liability avoidance.

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<sup>16</sup> For point of clarification, I was not made aware of any “discussion” about the Report Governor Bridges had with the Board, other than in a few Executive Session Meetings. As previously stated, he was certainly never admonished in any manner.

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On July 26, after considering the Barron Report and determining what, if any, duty they had towards Ms. Ralph and the Association members they represent, the BOG reconvened next in their public session that same afternoon. Specifically, the Board then held an election for the position of Treasurer. This BOG elected Governor Bridges to the position.

Governor Bridges ran against Governor Alec Stephens who had been nominated and promoted by the outgoing Treasurer Risenmay. Treasurer Risenmay had chosen Governor Stephens as his nominee before he knew about the Barron Report, or even the allegation against Governor Bridges. In Treasurer Risenmay's opinion, Governor Stephens was highly qualified for the position; Treasurer Risenmay provided the BOG with Governor Stephens's credentials in advance of the voting.

The position of Treasurer is the only *de facto* chair of any BOG committee or board, i.e., not made by an appointment of the President. The Treasurer is the *de facto* Chair of the Budget and Audit Committee. As such, the position comes with elevated responsibilities. The Treasurer, together with the Budget and Audit Committee, presents a proposed Annual Budget to the BOG for approval prior to each fiscal year. As previously stated, it is also one of few Officers of the Board of Governors. The Treasurer sits on the Board's Executive Committee and it has succession leadership. Yet, the Treasurer still has a vote on the Board itself. Further, as the only position that is elected by the Board, other than the position of President-Elect, the elected individual is seen as having, and clearly does have, the approval of the Board. These may seem like obvious aspects of holding the Treasurer position but several BOG members opined that the Treasurer position was not actually an elevated position and so it bears addressing.

Boldly, many Governors told me that they had already decided to vote for Governor Bridges before they had even read the Barron Report, and any determination of his behavior and lack of credibility could not, and did not, change their minds. Essentially, they told me that these behaviors did not merit consideration. In fact, Governor Paul Swegle told me that it would not have mattered to him what the Report said, he would not have voted for any other person but Governor Bridges for the Treasurer position because Governor Bridges would not be "a stooge." Another BOG member admitted to me that the Treasurer "election was cooked," though "people pretended it was an open process."

Thus, the BOG elevated Governor Bridges to Treasurer. If the Board had addressed the conflict of interest inherently involved in their mismanagement of this process, they would have seen that this decision merited greater awareness of the optics it presented. To a reasonable person outside the Board, it appeared that the BOG had voted to promote an individual they knew had committed inappropriate conduct and was deemed less than credible.

Arguably, President Pickett was signatory to an August 24, 2018 letter to Governor Bridges. See Attachment F. This letter, however, does not appear to have even been considered or sanctioned by the Board itself. It certainly was never before them for review. And Governor Bridges made it clear to me that

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he did not consider it to be any type of admonition. Further, by its very language, this letter can in no way be considered disciplinary. Much of the letter is a warning to Governor Bridges to avoid any action that might be seen as retaliatory by Ms. Ralph. Much like the anti-retaliation training for the BOG, this letter is merely liability avoidance. As a result, the letter to Governor Bridges does not constitute remedial action on behalf of the BOG.

On January 18, 2019, five staff employees courageously stood up and read a letter to the Board of Governors setting out their dismay over what they perceived as a failure in their organization's leadership. Many of these staff witnesses told me that they had been motivated by the media article and by the demeanor of Ms. Ralph as she attempted to go about her duties. Yet, one BOG member sarcastically described this event to me as "the staff uprising." One staff employee even heard a Governor refer to them as the "red yarn lesbians," because they wore red string on their arms to show their solidarity.

Further, without any evidence to support their theory, multiple Governors told me that they believed the January 17 letter and the January 18 presentation were spurred on by Executive Director Littlewood in response to her termination the night before. These Governors described the statements from staff at the Board Meeting as "overblown," "excessive," and "dramatic" emotional displays. As a result, many Governors did not take the complaints of staff members seriously because they felt this protest was contrived.<sup>17</sup> A couple of BOG members even complained that ED Littlewood did not come to their defense in the face of these staff accusations, after they had terminated her employment the night before.

To say that the reaction of the BOG was underwhelming is to say the most. Only one BOG member, Governor P.J. Grabicki, addressed the staff employees and Governor Grabicki's response was that the BOG would discuss the employees' concerns further in Executive Session. It took a WSBA audience member to force the subject back to the BOG's attention for discussion. What became quickly apparent was that no BOG member, except perhaps Governor Stephens, was willing to verbalize his or her recognition of the BOG's responsibility and failures in handling the determination of the Barron Report.

In this Board Meeting, some BOG members suggested that perhaps these staff employees had not actually read the Barron Report and thus did not know what they were talking about. Some Governors attempted to push the same falsehoods about the investigator's conclusions Governor Bridges had. Many Governors touted their own work history as evidence that they would never do anything inappropriate or unjust. Some were insulting. There was a prevailing disrespect and condescension by the BOG speakers towards these WSBA staff members who had the courage to speak up on an issue about which they felt strongly.

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<sup>17</sup> In fact, the final letter was circulated by email to WSBA staff employees at 3:06 p.m., stating the staff's intention to present it at the 8:00 a.m. BOG Meeting the next day. It is estimated by most BOG witnesses that ED Littlewood was not aware of her termination until after 5:00 p.m. on the January 17. As a result, the Governors' theory fails because of the timing. Additionally, every staff employee with whom I spoke denied discussing their letter or intentions with anyone on the Executive Staff and specifically with ED Littlewood.

Chief Justice Mary Fairhurst, Washington State Supreme Court

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The response of many BOG members in that meeting evidenced staff employees' statements to me regarding the disrespect with which they feel treated by various Governors. In short, their responses showed the lack of clear expectations of behavior for handling complaints from employees.

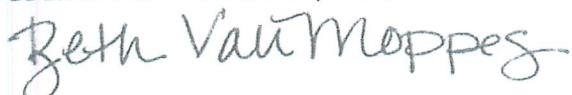
**CONCLUSION**

I have therefore determined, as a result of my investigation, that the Board of Governors did not have in place, or hold itself accountable to, any anti-harassment policies and procedures dictating clear expectations of behavior and processes for handling complaints of inappropriate behavior against a Governor. The Board of Governors also failed to recognize and address any conflicts of interest inherent in any process used to handle such a complaint. Finally, the Board failed to take any preventive or remedial action to address that situation thus failing to maintain a working environment for the WSBA staff employees free from intimidation, ridicule and insult in accordance with EEOC Guidance Policy.

I hope that these observations and conclusions are of assistance to the State Supreme Court and the Washington State Bar Association. If I can provide any additional information or address any concerns, please do not hesitate to let me know.

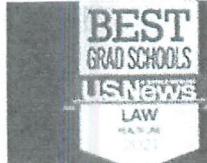
Sincerely,

OGDEN MURPHY WALLACE, P.L.L.C.



Beth Van Mopps, AWI-CH

BVM:jmw



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Home / Daily News / Former state bar president is charged with...

CRIMINAL JUSTICE

# Former state bar president is charged with stealing \$16K from her former law firms and bar

BY DEBRA CASSENS WEISS ([HTTPS://WWW.ABAJOURNAL.COM/AUTHORS/4/](https://www.abajournal.com/authors/4/))

OCTOBER 22, 2018, 11:21 AM CDT

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**Corrected:** The former president of the Washington State Bar Association has been charged with stealing about \$16,000 from the bar and her two former Spokane-area law firms.

Robin Haynes, 40, was charged

([https://docs.google.com/viewer?url=https://abovethelaw.com/wp-content/uploads/2018/10/file0002.pdf&hl=en\\_US](https://docs.google.com/viewer?url=https://abovethelaw.com/wp-content/uploads/2018/10/file0002.pdf&hl=en_US)) last week with theft and identity theft, report Law.com (<https://www.law.com/2018/10/19/ex-president-of-washington-bar-association-charged-with-theft/>), NBC Right Now (<http://www.nbcrightnow.com/story/39297733/former-washington-state-bar-association-president-charged-with-theft-identity-theft>) and the Spokesman-Review

(<http://www.spokesman.com/stories/2018/oct/16/former-president-of-washington-state-bar-associati/>) in a story summarized by Above the Law (<https://abovethelaw.com/2018/10/state-bar-president-charged-with-theft/?rf=1>) and the Associated Press

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(<https://www.theolympian.com/news/business/article220155900.html>).

Court filings allege that Haynes used law firm credit cards for personal expenses such as political donations and a gym membership. She is also accused of receiving reimbursements from the WSBA for expenses never incurred. And she is accused of receiving reimbursements from the WSBA to repay charges for bar work made on her law firm credit cards, without fully reimbursing her law firms.

Haynes is accused of stealing about \$10,800 from the law firm Witherspoon Kelley and about \$3,800 from the law firm McNeice Wheeler, according to an affidavit of facts ([https://docs.google.com/viewer?url=https://abovethelaw.com/wp-content/uploads/2018/10/file0001.pdf&hl=en\\_US](https://docs.google.com/viewer?url=https://abovethelaw.com/wp-content/uploads/2018/10/file0001.pdf&hl=en_US)). She is also accused of stealing about \$1,500 from the WSBA for conduct that began in 2014.

McNeice Wheeler recouped the stolen money by withholding it from her last paycheck, according to Haynes' instruction, according to the affidavit.

The affidavit also alleged that Haynes stole nearly \$9,500 from the state bar from October 2010 through September 2013 by receiving reimbursement for charges made on the credit card for another law firm where Haynes worked, Reed & Giesa. Haynes did not forward the reimbursement money to Reed & Giesa, according to the recollection of a bookkeeper cited in the affidavit. That conduct was not charged, however.

Haynes was the youngest bar president in the state's history when she began her term in October 2016. She resigned in June 2017 after the allegations surfaced.

Haynes' lawyer, Kevin Curtis, provided this statement to NBC Right Now and Law.com: "We are extremely disappointed that after 20 months the prosecutor has now decided to file charges. We have not received any investigative reports and will not be making any further statements until we have had the opportunity to thoroughly review and investigate the charges, including the issues surrounding the delay."

*Corrected on Oct. 23 to state that Haynes was only charged with stealing about \$1,500 from the WSBA, though an affidavit alleged the total amount taken from the bar was about \$11,000. Story also updated to state more specific amounts allegedly stolen from the law firms.*

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LABOR & EMPLOYMENT

## Washington bar's board mishandled employee's sexual harassment complaint, report finds

BY LYLE MORAN ([HTTPS://WWW.ABAJOURNAL.COM/AUTHORS/64793/](https://www.abajournal.com/authors/64793/))

MAY 21, 2020, 9:23 AM CDT

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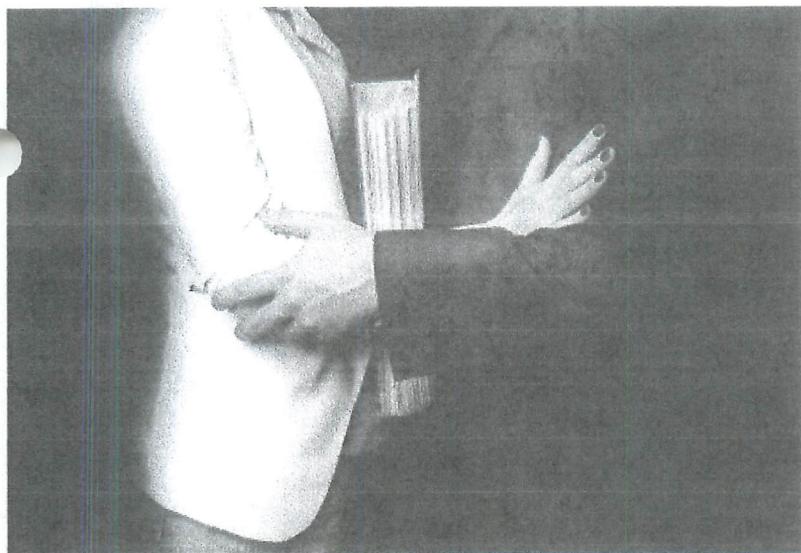
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The Washington State Bar Association's board of governors created a hostile work environment for staff by mishandling an employee's sexual harassment allegations lodged against a board member, according to an outside investigator's scathing report that recently became public.

### The report

([https://www.abajournal.com/files/Van\\_Moppes\\_Report.pdf](https://www.abajournal.com/files/Van_Moppes_Report.pdf)) criticized the board for not taking remedial action against bar governor Dan'L W. Bridges despite a separate investigation concluding that employee Kara Ralph's account of Bridges making

sexualized statements to her at an off-site retreat was more credible than his recollection of the incident. In fact, rather than punish Bridges, the board elected him treasurer of the WSBA.

"To a reasonable person outside the board, it appeared that the [board] had voted to promote an individual they knew had committed inappropriate conduct and was deemed less than credible," attorney Beth Van Moppes, a member of Washington state law firm Ogden Murphy Wallace, wrote in the 25-page summary of her investigation dated Dec. 31, 2019.

The investigator's findings have been cheered by current and former WSBA employees whose raising of concerns about the bar's handling of Ralph's allegations prompted the Washington Supreme Court to unanimously order the workplace probe early last year. Meanwhile, according to WSBA officials, the retreat incident and Van Moppes' investigation led the association to adopt clear policies for handling complaints against board members as previously recommended by staff.

But questions and critiques have arisen in recent weeks about the lack of transparency from the WSBA and court concerning the completion of the workplace review, which the then-Washington chief justice informed bar association leadership about in December.

It was not until the last week of April that the full supreme court received Van Moppes' report and the WSBA requested the document and shared it with staff. These disclosures came only after Athan Papailiou, a former WSBA board member, received the report from the state court system following an appeal of a prior public records request.

"This investigation was publicly ordered," says Robin Nussbaum, a former WSBA employee. "I don't understand why the results of the investigation were not publicly shared."

### **'We're going to have a problem'**

The alleged sexual harassment incident at issue occurred during a WSBA retreat/meeting at a hotel in Walla Walla, Washington, in July 2016. Ralph had begun her position that month as the association's events & sponsorship specialist. Meanwhile, Bridges had been elected as a bar board member but was not yet sworn in.

After dinner one night of the retreat, Ralph was sitting alone at a table by the hotel bar when Bridges joined her, starting what turned into a lengthy conversation. Ralph says Bridges, who is married, told her early on that he doesn't believe in being monogamous, according to a report from an outside investigator the WSBA hired.

When Ralph left the bar, she alleges, Bridges followed and got on the elevator with her. Ralph claims Bridges later said he wanted to go to Ralph's room and took the elevator to her floor, which was above his. When the elevator arrived at Ralph's floor, she said she stepped off and told Bridges if he disembarked, "we're going to have a problem."

Bridges denied he offered to go to Ralph's room and that he said he is not monogamous, asserting to the investigator neither he nor Ralph displayed any sexual interest in the other.

Jillian Barron, the employment lawyer hired to investigate the incident, wrote that Bridges' story about what happened after he and Ralph left the bar evolved over the course of her two meetings with him.

"In short, while Ms. Ralph's and Mr. Bridges' accounts of the circumstances are consistent in many respects, with regard to the conduct on which they disagree I find it more likely than not that Mr. Bridges engaged in certain actions that he strongly denies," wrote Barron, a shareholder at Bellevue, Washington, law firm Sebris Bust James.

Barron's July 2018 report ([https://www.abajournal.com/files/Barron\\_Report\\_2018.pdf](https://www.abajournal.com/files/Barron_Report_2018.pdf)) did not state whether Bridges had violated any WSBA policy or state law, nor did it provide any recommendations on what the association should do in response to her findings.

Although the retreat incident happened in 2016, Ralph did not disclose it until 2018. That is when she told Papailiou, who was then a WSBA board member, at a legal conference. This prompted Papailiou to report the incident to WSBA leadership, which led to Barron's investigation, which cost roughly \$23,000, according to the bar.

After discussing the Barron report at a July 2018 private-session meeting, the board voted in a public session shortly thereafter to elect Bridges as the WSBA's 2018-2019 treasurer. He prevailed over another board member who had sought the post and was recommended by the outgoing treasurer.

## Investigating the board

In January 2019, 34 of the WSBA's approximately 150 employees sent a letter

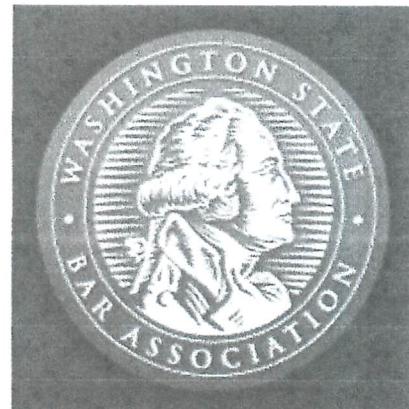
([https://www.abajournal.com/files/Employee\\_letter\\_to\\_board\\_January\\_2019.pdf](https://www.abajournal.com/files/Employee_letter_to_board_January_2019.pdf)) to the association's board criticizing the panel's response to the Barron investigation.

"From our perspective, a colleague disclosed an allegation of harassment by a board member and the board's response to that disclosure resulted in a process that lacked proper oversight, transparency, and consideration of our colleague's safety and well-being," the letter said.

The employees also wrote that elevating Bridges to treasurer was "effectively rewarding the accused with an even more powerful position with more direct access to staff members."

A few days later, a group of 28 employees sent a letter ([https://www.abajournal.com/files/Employee\\_letter\\_to\\_Supreme\\_Court\\_January\\_2019.pdf](https://www.abajournal.com/files/Employee_letter_to_Supreme_Court_January_2019.pdf)) to the state supreme court that amplified their concerns.

Mary Fairhurst, the chief justice of the Washington Supreme Court at the time, responded to the employees in a March 1, 2019 letter ([https://www.abajournal.com/files/Chief\\_Justice\\_March\\_1,\\_2019\\_letter.pdf](https://www.abajournal.com/files/Chief_Justice_March_1,_2019_letter.pdf)) indicating the court would select an independent investigator to review their allegations of a



hostile work environment. She ultimately selected Van Moppes, who interviewed 53 individuals with ties to the WSBA, including employees and board members.

Van Moppes' investigative report emphasizes that the board of governors discussed in a July 26, 2018, session closed to the public the outside report that concluded Bridges had given Ralph "unwanted personal attention."

Van Moppes wrote that Bridges was present for the conversation about the report, and there was no discussion about the propriety of his attendance. Bridges said during the session he needed to share information he felt was not included in the Barron report, according to Van Moppes.

Bridges' written rebuttal to the board about the Barron report and comments he made in the closed session misquoted its findings, Van Moppes wrote, something she said Bridges continued to do "frequently thereafter."

"The fact that the [board] permitted Governor Bridges to remain in the room, to defend himself both verbally and in writing, and to "misstate" the report's findings, is egregious," Van Moppes wrote.

The board eventually decided to send Ralph a letter stating they had taken her complaint seriously and would implement additional harassment training, which Van Moppes said was regularly scheduled training.

Overall, Van Moppes concluded, on a more-likely-than-not basis, "that the working environment for the WSBA employees was hostile, intimidating, and insulting, as a result of the board's failures." However, she added that whether any liability flows from the board's conduct or the working environment they created was a legal determination outside the scope of her work.

Van Moppes declined to comment for this article. The WSBA said it paid \$165,948.24 for her work.

### **Bridges defends actions**

Bridges defends his involvement in the board's initial deliberations about his interaction with Ralph at the retreat, and he tells the ABA Journal that the board is improperly being accused of creating a hostile work environment.

Bridges also emphasizes that then-Chief Justice Fairhurst and one other state supreme court justice were present for the private board session in which his conduct was discussed, an assertion confirmed by others.

"The idea that this stuff was happening behind closed doors, smoky rooms, is nonsense," says Bridges, a partner at McGaughey Bridges Dunlap in Seattle who cycled off the WSBA board in fall 2019.

Additionally, Bridges says the board made the right decision in deciding not to take any remedial action against him because he did nothing wrong, adding that a lie detector test he decided to take supports his position.

In late 2018, Bridges filed a tort claim ([https://www.abajournal.com/files/Bridges\\_tort\\_claim\\_.pdf](https://www.abajournal.com/files/Bridges_tort_claim_.pdf)) against the bar alleging he was retaliated against because he blew the whistle regarding "conflicts of interest, self-dealing, and irregularities within WSBA." The claim said he was seeking at least \$1 million in damages, though a subsequent letter from his attorney in early 2019 indicated the WSBA should consider that dollar amount withdrawn.

In April, Bridges agreed to release the bar from any claims during his time serving on the WSBA board in exchange for the board passing a resolution praising his service. The board resolution ([https://www.abajournal.com/files/Bridges\\_resolution.pdf](https://www.abajournal.com/files/Bridges_resolution.pdf)) approved in mid-April says Bridges "worked diligently to bring heightened transparency and greater fiscal accountability to the organization for the benefit of its members."

"WSBA acknowledges that Mr. Bridges' term was during a tumultuous time and some acts were taken to undermine him personally as a way to oppose the policies he was advocating," the resolution says. "That was not appropriate."

Bridges did not receive any money as part of the settlement, which the ABA Journal obtained through a public records request.

### **Staff praises report's findings**

Longtime WSBA employee Pam Inglesby says the board's continued support of Bridges' version of events is "insulting to staff." She is among the current and former Washington Bar employees who say Van Moppes accurately portrayed the troubling work environment they experienced.

"What the report does for us is it confirms the reality we have been living through the last couple of years," says Inglesby, a volunteer operations specialist who has worked at the bar for 20 years. "I observed interactions between board members and WSBA staff that felt very hostile and unprofessional."

Nussbaum, who previously worked as the bar's senior inclusion and equity specialist, called the outside report "vindicating."

"It felt like a pretty terrible place to be, yet members of the board were acting and talking to us like we were crazy," says Nussbaum, who left the WSBA last fall. "If we can't trust our lawyers to behave ethically and appropriately, that is a recipe for social disaster."

Van Moppes' report also noted that at least a dozen employees resigned from the WSBA in 2019, and many of them said they left due to the board's failure to properly address Ralph's sexual harassment complaint.

In February 2019, Ralph filed a ([https://www.abajournal.com/files/Ralph\\_lawsuit\\_against\\_WSBA\\_\(1\)\\_1.pdf](https://www.abajournal.com/files/Ralph_lawsuit_against_WSBA_(1)_1.pdf)) suit ([https://www.abajournal.com/files/Ralph\\_lawsuit\\_against\\_WSBA\\_\(1\).pdf](https://www.abajournal.com/files/Ralph_lawsuit_against_WSBA_(1).pdf)) claiming the WSBA violated the Washington Law Against Discrimination in its handling of her allegations against Bridges.

"The board's failure to hold its own member accountable is part of a systemic problem that discourages women employees from reporting violations and enables a toxic workplace, including sexual harassment, to continue," said the complaint filed on Ralph's behalf by attorney Isaac Ruiz, who is now the managing attorney of Plaintiff Litigation Group in Seattle.

Ralph left her job at the WSBA in June 2019, which was around the time she settled her lawsuit.

The bar declined to disclose the amount paid to Ralph as part of the settlement, saying both parties have agreed to no further comments. Ruiz did not provide comment for this article by deadline.

Frances Dujon-Reynolds, who served as the Washington bar's director of human resources for roughly 14 years, tells the ABA Journal that she is another employee who stepped down last year because of the board's actions and treatment of staff.

"We said we represented the highest level of integrity in the profession, yet that wasn't what I was seeing," Dujon-Reynolds says. "That to me was so egregious. I could not live with that."

She is also among those with WSBA ties who criticize the state's supreme court for not doing more to try to right the ship at the bar.

"The court is supposed to be the check, and it is very hands off and has refused to serve in that capacity from what I've seen," Dujon-Reynolds says.

Fairhurst, who left her post as chief justice early this year, did not respond to an interview request made through the Administrative Office of the Courts.

## **Seeing the light of day**

It was the high court's chief justice who notified WSBA leadership last December of the workplace investigation's completion and recommended the bar adopt some explicit policy revisions in response to Van Moppes' conclusions.

"The changes should ensure there are anti-harassment policies and procedures in general as well as clear policies and procedures for handling complaints against a governor," Fairhurst wrote in a Dec. 9, 2019, letter ([https://www.abajournal.com/files/Chief\\_Justice\\_12-9-19\\_letter.pdf](https://www.abajournal.com/files/Chief_Justice_12-9-19_letter.pdf)) to WSBA President Rajeev Majumdar and WSBA Interim Executive Director Terra Nevitt.

Fairhurst wrote she had also discussed with Majumdar how her recommendations could be accomplished, though Majumdar says the WSBA did not receive or request Van Moppes' investigative report at that time.

Later in December 2019, the bar's board adopted new language in its anti-harassment policy ([https://www.abajournal.com/files/Anti-harassment\\_policy.pdf](https://www.abajournal.com/files/Anti-harassment_policy.pdf)) covering complaints against governors. Majumdar says the staff offered very helpful amendments that were included in the policy.

"While the WSBA had to go through some tumultuous times, I think the staff and board were able to come together as a result of this and put policies in place so that we wouldn't be inclined to be in such a situation ever again," Majumdar says.

The updated policy calls for the chief justice to appoint an independent ombudsperson who plays a role in determining, along with the WSBA president and HR director, whether the facts stated in a complaint involving a WSBA board member constitute harassment or discrimination. If so, the ombudsperson chooses an outside investigator to review the complaint.

In March, new Washington Supreme Court Chief Justice Debra L. Stephens named Oregon employment lawyer Sarah Hale as the ombudsperson for complaints made against WSBA board members. Hale, an Oregon-based partner at Barran Liebman, previously investigated whether WSBA board member Papailiou was retaliated against by other board members, including Bridges, for reporting Ralph's sexual harassment allegations. In a January 2019 report ([https://www.abajournal.com/files/Sarah\\_Hale\\_January\\_2019\\_report\\_1.pdf](https://www.abajournal.com/files/Sarah_Hale_January_2019_report_1.pdf)) to the chief justice, Hale wrote the evidence did not support Papailiou's allegations.

Meanwhile, President Majumdar says the Washington bar did not seek the Van Moppes report and share it with staff prior to late April because he feared its disclosure might scare employees from participating in future investigations.

"The reason we have requested the report now is because we have learned that the Administrative Office of the Courts determined the record to be public and released it; under those circumstances, we wanted to provide notice to our employees who participated and to be prepared for questions and exposure to the public," he said in a recent statement.

Nevitt said she agreed with the decision not to seek the report in December, though both she and Majumdar acknowledged many employees likely would have wanted to review it.

"While this report may have been one that people would like to see out there and published, I can imagine there might be other investigations we might conduct that they might feel differently about," Nevitt said in an interview.

Papailiou, who while on the WSBA board pushed unsuccessfully for remedial action to be taken against Bridges because of the Ralph incident, criticized the bar for its lack of transparency that only his successful records request ended.

"The report confirms what has been obvious to any neutral observer: that is the Board of Governors has acted unprofessionally and contrary to the values of our profession as attorneys and stewards of public justice," says Papailiou, a public records and appellate litigator based in Yakima, Washington. "It is unfortunate that it took so long for the truth to come to light."

As for the Washington Supreme Court, it met on May 7 to discuss Van Moppes' report. Afterward, Chief Justice Stephens sent a letter ([https://www.abajournal.com/files/Court\\_letter\\_5-7-20.pdf](https://www.abajournal.com/files/Court_letter_5-7-20.pdf)) to WSBA leadership saying, in part, "in light of the important issues raised in the report" the court was requesting an update on the board's relationship with executive leadership and staff interactions with the board, among other topics.

"Please provide the update as soon as reasonably practicable, and please plan on providing an update covering the same information in six months and again in 12 months," wrote Stephens, who also addressed the letter to the ombudsperson for WSBA matters.

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**Open letter to the Board of Governors**

1/18/19

We, the undersigned staff of WSBA, are writing to share our concerns with recent events and actions/inactions taken by the board. Since the public release in December of information relating to allegations of a board member's misconduct, many of us are uncomfortable and upset at work and some even question our level of safety and protection in our work environment.

We have read the news report and the investigation reports and while we know we may not have all the information, it appears to us that the board has failed to hold itself accountable.

From our perspective, a colleague disclosed an allegation of harassment by a board member and the board's response to that disclosure resulted in a process that lacked proper oversight, transparency, and consideration of our colleague's safety and well-being. Our colleague's accusation was subject to an independent investigation. The third-party investigator found our colleague's account of events to be credible. Even after receiving this report, the board chose not to remove or even censure the accused board member. Not only did this board fail to remove or censure the accused, the board promoted him to the position of treasurer, effectively rewarding the accused with an even more powerful position with more direct access to staff members.

This board has failed to exhibit courageous leadership. Promoting a board member accused of such behavior to a more prestigious position without an appropriate process, sends a stark message to staff that we are not valued or respected. This behavior demonstrates to staff that the board is not interested in holding itself accountable and not concerned with the many conflicts of interest. This board's actions have a chilling effect on staff's willingness to report problematic issues in the future. Employee morale is low and many of us are struggling to manage the reminders of our past experiences and the experience of living through this current situation. We should not be subject to such traumatization and retraumatization at work, particularly from the very body entrusted to champion justice and uphold the ethical practice of law.

Your processes are inadequate for managing these situations and the board refuses to hold itself accountable and fails to recognize its own conflicts of interest. The current attempt to shift litigation oversight from the general counsel to the board gives the impression of self-dealing, protectionism, and an enormous conflict of interest. This board's lack of transparency just further evidences the lack of accountability and responsibility.

We ask that you review your policies and create institutionalized systems for properly handling similar situations—including clear processes for when removal of a governor or volunteer is appropriate. We ask that you create policies that have clear expectations of behavior and how to proceed when complaints are raised, including the expected recusal of parties with a conflict of interest. We ask that you hold yourselves accountable for your mismanagement of this process. We further ask that you revisit this situation with a proper procedure in place.

Signed,

Robin Nussbaum  
✓Dana Barnett  
Paige Hardy  
Bonnie Sterken  
Laura Sanford  
Colin Rigley  
✓Dan Crystal  
Joy Williams  
Kris McCord  
Joanne Russell  
Barbara Ochota  
✓Devorah Signer Hill

✓Sherry Lindner  
Kalina Spasovska  
Noel Brady  
Diane Plummer-Cranston  
Patrick Mead  
Tyler Washington  
Jennifer Olegario  
Emily Cioc  
Ana LaNasa-Selvidge  
Paris Eriksen  
Michael Paugh  
Diana Singleton

✓Whitney Kleinick  
Connor Smith  
Gabriel Moore  
✓Steve Carroll  
✓Russell Johnson  
Pam Inglesby  
Margaret Shane  
✓Danielle Oliver  
Jim Hanneman  
✓Destinee Evers

*Different  
no me  
no me  
but we have  
but we have*

# EXHIBIT 82

[https://www.khq.com/news/former-washington-state-bar-association-president-charged-with-theft-identity-theft/article\\_4cba89d5-a2c3-574d-8d10-39c7e2d5eb96.html](https://www.khq.com/news/former-washington-state-bar-association-president-charged-with-theft-identity-theft/article_4cba89d5-a2c3-574d-8d10-39c7e2d5eb96.html)

## Former Washington State Bar Association president charged with theft, identity theft

Oct 16, 2018



Just two years ago Robin Haynes was named the youngest Washington State Bar Association President in its history. But she had to step down last year after a criminal warrant was filed against her. Now the Spokane County Prosecutor's office is filing more charges, including identity theft.

Newly filed court documents detail an elaborate scheme to allegedly defraud two law firms Haynes worked for and the Washington State Bar Association while she was president. The 40-year-old Haynes is facing multiple counts of second-degree theft and identity theft charges.

The documents say Haynes used law firm credit cards without permission to allegedly make political donations, pay for personal travel expenses and even used a client's account to charge a personal gym membership.

According to the documents, Haynes also booked a hotel in Seattle 10 months after she was let go from one of the law firms. But it isn't just goods or services she's accused of stealing - investigators claim she swindled nearly \$11,000 over a two year period between October 2013 and December 2015 from the law firm Witherspoon Kelley and took roughly \$4,000 from the McNeice Wheeler law firm between April 2016 and December 2016.

Between April 2014 and September 2016 she allegedly took more than \$1,500 from the Washington State Bar Association. The law firm McNeice Wheeler declined to comment. Haynes is expected to make a first appearance on October 29th, 2018.

Haynes' attorney Kevin Curtis provided this statement:

"We are extremely disappointed that after 20 months the prosecutor has now decided to file charges. We have not received any investigative reports and will not be making any further statements until we have had the opportunity to thoroughly review and investigate the charges, including the issues surrounding the delay."

Law firm Witherspoon • Kelley President provided this statement:

"We were disappointed to learn that Ms. Haynes chose to retain Washington State Bar Association expense reimbursements previously advanced by our firm for her personal financial gain. Since then, we have cooperated fully in the investigation and trust the judicial process will lead to the appropriate outcome."

Washington State Bar Association provided this statement:

"We recognize Ms. Haynes' leadership in the organization for more than seven years, including as a New and Young Lawyer at-large board member and WSBA President," said WSBA President William Pickett. "We have cooperated with law enforcement authorities in their investigation. We cannot make further comments at this time."



#Breaking: Former @WAStateBar President Robin Haynes has been charged with multiple counts of theft & identity theft per recently filed docs. She allegedly stole funds from two local law firms, and from the WSBA. Totaling nearly \$26K. Story at 5 on @KHQLocalNews

2:05 PM · Oct 16, 2018

i

4 See Peter Maxwell's other Tweets

# Former president of state bar charged with theft

By - Associated Press - Wednesday, October 17, 2018

SPOKANE, Wash. (AP) - The former president of the Washington State Bar Association has been charged with stealing from two Spokane-area law firms where she previously worked.

Prosecutors on Monday charged Robin Haynes with theft and identity theft.

The Spokesman-Review reports that the 40-year-old Haynes is accused of buying a gym membership and donating to political funds using credit cards from her two former employers.

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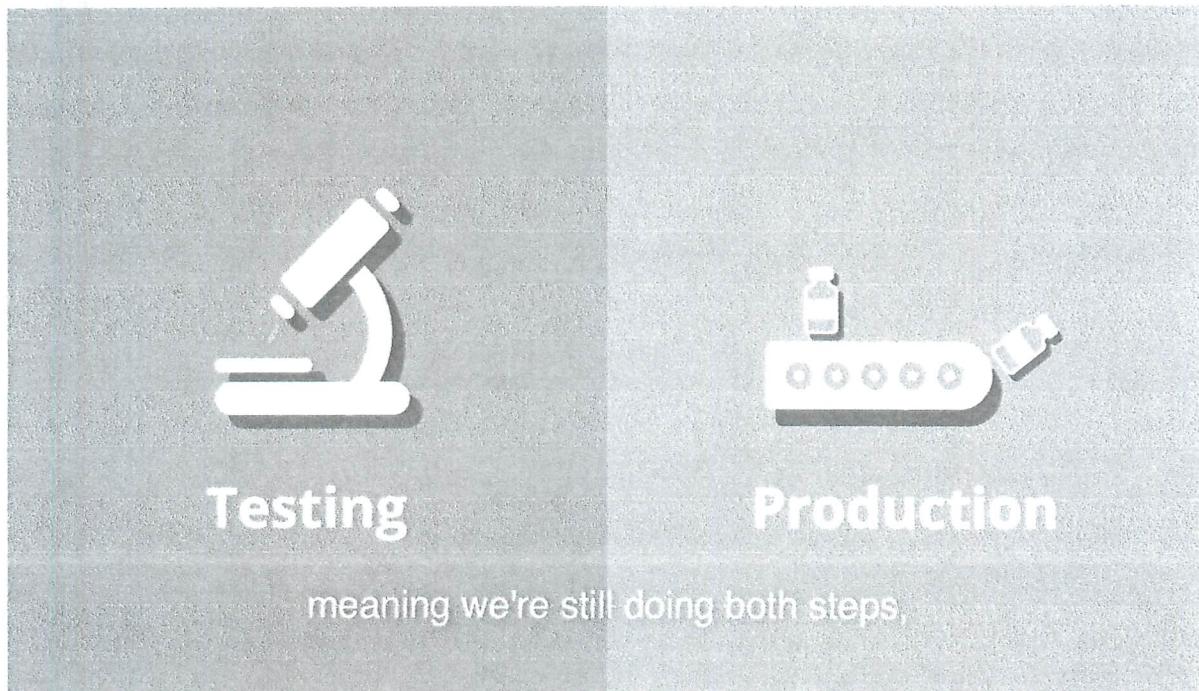
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Haynes was not arrested, and her arraignment is set for the end of month. She is accused of stealing about \$26,000, according to court documents.

Haynes became the youngest president in the history of the state bar in October 2016. She resigned her post in June 2017 as the accusations became public.



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Haynes' lawyer could not be reached for comment.

Photo: AP Photo/J. David Ake

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# EXHIBIT 83

What time are you thinking you will  
call?

8:43 AM

This afternoon?

8:44 AM

Sounds good

8:44 AM

Dec 12, 2017

Good morning! I've got four emails  
saved from mdc from june re robin  
haynes

7:55 AM

Good, you did find them. Did you  
happen to learn anything about the  
former office manager? I think her  
name was Megan?

7:57 AM

# EXHIBIT 84

## Case Information

18-1-04573-9 | STATE OF WASHINGTON VS HAYNES, ROBIN LYNN

Case Number	Court	
18-1-04573-9	Spokane	
File Date	Case Type	Case Status
10/15/2018	ADL Criminal Adult	Active

## Party

Plaintiff (Criminal)  
STATE OF WASHINGTON, NFN

Active Attorneys▼  
Lead Attorney  
Evans, Casey Allen  
Court Appointed

Defendant (WIP)  
HAYNES, ROBIN LYNN

DOB  
XX/XX/XXXX

Active Attorneys▼  
Attorney  
King, James B.  
Retained

Lead Attorney  
Curtis, Kevin James  
Court Appointed

## Events and Hearings

10/15/2018 Information ▼

Comment  
1: INFORMATION;

07/21/2020 Affidavit Declaration Certificate Confirmation of Service

07/21/2020 Affidavit Declaration Certificate Confirmation of Service

08/20/2020 Notice of Appearance

10/12/2020 Ex Parte Action With Order ▾

Judicial Officer	Comment
Price, Michael P	Signed: CSO -Curtis

10/12/2020 Ex Parte Action With Order ▾

Judicial Officer	Comment
Price, Michael P	Signed: Amended Criminal Case Schedule Order -Dept 5

10/12/2020 Order Amending Case Schedule ▾

Judicial Officer	Comment
Price, Michael P	TRIAL 3-22-21

10/12/2020 Order Setting Trial Date ▾

Judicial Officer	Comment
Price, Michael P	3-22-21

## ATTORNEYS

## ATTORNEYS

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JAMES F. TOPLIFF

CHRISTOPHER J. KERLEY

ROBERT F. SESTERO, JR.

SEAN P. BOUTZ

MARKUS W. LOUVIER

SAMUEL C. THILO

SCOTT A. FLAGE

SEAN M. KING

CHASE P. CUNNINGHAM

THOMAS B. ROHRER

MEMBER

HUGH O. EVANS (1944-2016)

JAMES S. CRAVEN

HUGH T. LACKIE (1946-2017)

JAMES B. KING

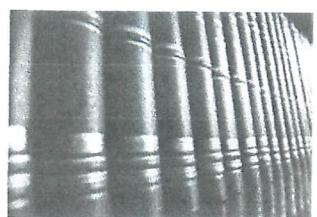
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