

NOTICE CONCERNING STATE BAR DUES REDUCTION AND ARBITRATION PROCESS

§1.0 Overview

In *Keller v. State Bar of California*, the United States Supreme Court held that a mandatory bar may not fund political or ideological activities with mandatory dues unless those activities are germane to regulating the legal profession or improving the quality of legal services. The *Keller* Court further held that a mandatory bar could satisfy its constitutional obligation to ensure that such activities were funded only with voluntary payments by adopting a procedure that would allow dissenting members to deduct the pro rata amount spent on those activities from their mandatory dues payment, and providing a mechanism to challenge the calculation of the reduction as it had previously approved for mandatory union dues in *Chicago Teachers Union v. Hudson*, 475 U.S. 292 (1986).

Following *Keller*, the Wisconsin Supreme Court adopted the procedure set forth at SCR 10.03(5)(b) and State Bar bylaw Article 1, Section 5 when it reintegrated the Bar. That procedure was upheld in the face of a constitutional challenge in *Thiel v. State Bar of Wisconsin*, and has governed the Bar’s procedures for calculating the annual dues reduction since then. However, in *Kingstad v. State Bar of Wisconsin*, decided in September 2010, the Seventh Circuit held that case law subsequent to *Thiel* required that all activities of the bar, not only political or ideological activities, must be germane to the purposes identified in *Keller* in order to be funded with mandatory dues. Activities that are not germane to these two purposes are considered to be “nonchargeable.” The State Bar may use compulsory dues of all members for all other activities, provided the activities are within the purposes of the State Bar as set forth in SCR 10.02(2). These activities are considered to be “chargeable.”

The method used to calculate the amount of the dues reduction is based on the method approved in *Chicago Teachers Union v. Hudson*. In that case, the U.S. Supreme Court indicated that a labor union may use the year for which the most recent audit report is available as the base line period for determining chargeable and nonchargeable activities and calculating the cost of the nonchargeable activities.

To calculate this year’s dues reduction, the State Bar’s Executive Committee used this historical approach and reviewed activities for the fiscal year ending June 30, 2015 (FY15), the most recent fiscal year for which there is an audit report. A copy of the audit report can be found at:

<http://www.wisbar.org/formembers/groups/leadership/FinanceCommittee/Pages/FileCabinet.aspx?CurrentPath=Financial+Reports%2fFiscal+Year+2015%2f>

The committee scrutinized all State Bar activities during FY15 to identify nonchargeable activities. For each activity found to be nonchargeable, the State Bar calculated the cost of the activity—including all applicable overhead and administrative costs—and the amount of dues expended on the activity. That process resulted in the determination that \$142,808 of dues was expended on nonchargeable activities during FY15.

§2.0 Dues Reduction for FY17

Each State Bar member’s FY17 pro rata portion of the dues devoted to nonchargeable activities was calculated by a process that involved translating the anticipated total dues paid for FY17 (before reduction) into the equivalent number of full dues payments. The State Bar estimates that there will be 25,390 State Bar members in FY17 paying various levels of dues that translate to 20,679 full dues payment equivalents. Dividing \$142,808 (the total dues devoted to nonchargeable activities in FY15) by 20,679 (the number of full dues payment equivalents) results in a pro rata reduction of \$6.91 for members paying full dues.

Although strict calculation results in an available dues reduction of \$6.91 for members paying full dues, the Board of Governors voted to set the available

dues reduction at \$7.25 for members for the fiscal year beginning July 1, 2016 (FY17). (Active members admitted to their first bar April 30, 2014, or earlier, voting judicial members, and Supreme Court justices can withhold \$7.25; active members admitted to their first bar after April 30, 2014, and inactive members can withhold \$3.62; nonvoting judicial members can withhold \$4.83) The purpose of setting the dues reduction at the higher amount of \$7.25 is to give those who take the reduction the benefit of any error that may have been made in the calculation and make it unnecessary for members to request arbitration for small amounts.

§3.0 Detailed Calculation of the Dues Reduction

§3.1 Cost of and Dues Expended on FY15 Nonchargeable Activities

As noted earlier, to calculate the cost of and dues expended on chargeable and nonchargeable activities, the State Bar used the year for which the most recent audit report exists—that is, FY15. The State Bar reviewed all FY15 activities to identify those activities not germane to the regulation of the legal profession or improving the quality of legal services.

If an activity was determined to be nonchargeable, its cost was calculated. The cost included all staff time and facilities, governance, and administration expenses allocated in accordance with established State Bar accounting practices. Any revenues generated by the activity, such as Inside Track advertising, or other income earmarked for the activity were deducted from the total cost before the amount of dues devoted to the activity was calculated. In addition, surplus revenue over expense from other State Bar activities and unallocated revenue were assigned to the activity on a pro rata basis with dues revenue. Using this methodology, the total cost of and amount of dues devoted to nonchargeable activities in FY15 is calculated as follows:

Activity	Cost of Chargeable Activity	Portion Funded by Dues
Rotunda Report	\$1,691	\$1,367
Executive Committee	160	129
Annual Meeting & Conference	21,939	17,733
Inside Track	2,010	1,624
WI Lawyer	15,769	12,746
ABA Lobby Day	20,173	16,306
Government Lawyers Division	6,982	5,644
Legislative Oversight Committee	3,760	3,039
Board of Governors	31,174	25,198
ABA Delegates	13,584	10,980
Legislative	31,825	25,723
Division ABA	14,656	11,846
Board of Governors Policy Committee	1,005	813
Lavinia Performance	11,681	9,442
Young Lawyers Division Newsletter	173	140
Public Relations	96	78
Total Cost of Nonchargeable Activities	\$176,678	
Total Dues Devoted to Nonchargeable Activities		\$142,808

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A brief description of each of these FY15 nonchargeable activities follows.

Government Relations Activities. Work on the following legislative issues:

- Legislative Council Study Committees
- Uniform Laws Commission
- Legislative Report Book
- Public Affairs Policy Book (White Book)
- Rotunda Report
- Scales of Justice Awards
- SBW Federal Lobbying Positions
- Accrual Accounting
- SBW State Lobbying Positions
- Tax on Legal Services
- Expungement
- Juvenile Court Jurisdiction
- Estate Recovery & Divestment
- Child Relocation
- UFADAA
- Adult Guardianship
- Juvenile Guardianship (Redraft of 2011 Senate Bill 560)
- Senate Bill 165 – ABLE Act
- Budget Bill AB 21 – Family Care/ADRCs

InsideTrack. Expenses in connection with the following articles:

- December 5, 2014 article titled “State Bar Board Discusses E-filing and Redaction Proposals, Takes Other Actions”
- February 4, 2015 article titled “Social Justice Advocate Bryan Stevenson and CBS Correspondent Mo Rocca are the Plenary Speakers at the June 2015 Annual Meeting & Conference”
- February 18, 2015 article titled “Q&A With Mo Rocca: Expect the Unexpected With Famous News Funny Man”
- March 18, 2015 article titled “Marquette Law Professor: Early-release Prison Programs Reduce Recidivism, Save Money”

Wisconsin Lawyer Magazine. Thirty-one pages devoted to the following items:

- July 2014 article titled “Relearning the Lessons of Freedom Summer”
- October 2014 article titled “Decoding the Maze: Wisconsin’s Campaign Finance Laws”
- October 2014 article titled “The Intent of the Underlying Voter I.D. Policy is Debatable”
- November 2014 article titled “Adults Only: Returning 17 Year Olds to Juvenile Court”
- December 2014 article titled “Finding the Middle Ground? Allowing Depositions in Criminal Cases”
- December 2014 article titled “Returning 17 Year Olds to Juvenile Court: Another Approach”
- January 2015 article titled “Mandatory Retirement for Judges Coming?”
- March 2015 article titled “Let the Good Time Roll: Early Release for Good Behavior in Prison”
- May 2015 article titled “Proposed Changes to Noncompete Agreements May Harm Employees and Businesses”
- June 2015 article titled “It’s Time to Raise America’s ‘Salaried Minimum Wage’”

Public Relations. Expenses in connection with the following press releases:

- October 14, 2014 “State Bar Honors Two Legislators with Scales of Justice Award”
- June 5, 2015 “Mo Rocca, Bryan Stevenson Will Join Nation’s Top Lawyers, Journalists at State Bar Conference”

Board of Governors Discussions/Activities. The board’s discussion of the Scales of Justice Awards, the ABA House of Delegates, BOG Policy Committee position recommendations, the Legislative Report, ABA Days, the Second Chance Bill, and a report on the Federal Bar Association’s 40th Annual Indian Law Conference.

BOG Policy Committee. The committee’s review of the State Bar’s policy positions regarding expungement, immigration, Indian Child Welfare Act, and violence and the justice system.

Executive Committee. The committee’s discussion of the Scales of Justice Awards, ABA Days, and the ABA House of Delegates.

ABA. All of the expenses related to the State Bar Delegates attending the ABA House of Delegates at the ABA annual or midwinter convention, and all of the expenses related to ABA Lobby Day.

Division ABA Activities. Expenses in connection with the division representatives attending the ABA House of Delegates at the ABA annual or midwinter convention, any other ABA training, and any articles written in the division newsletters regarding the respective ABA activities.

Government Lawyers Division. Expenses in connection with the Government Lawyers Division Board of Directors meetings discussing the legislative updates.

Legislative Oversight Committee. The committee provides oversight to the legislative activities of the Bar and Sections. All expenses related to the committee were treated as non-chargeable.

Lavinia Performance. Expenses in connection with the Lavinia Goodell Play.

Annual Meeting & Conference. Expenses in connection with the Closing Plenary Program: A Conversation with Mo Rocca.

§4.0 Deadline for Arbitration Requests

Any member who wishes to call for arbitration of the amount of the dues reduction permitted for FY17 should deliver a request in writing to the Executive Director of the State Bar within 30 days of receipt of the dues statement. For details of the arbitration process, see SCR 10.03(5) (b) and article I, section 5 of the State Bar bylaws, which are available on wisbar.org and wicourts.gov.

Payments are due no later than July 1, 2016.

**Payments received after July 1, 2016
may be subject to late fees.**



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