



Stakeholder Meeting Minutes

January 27, 2023

Call to Order: The meeting convened at 10 a.m. with the following participants:

Holly Kessler
Isabel A. M. Cole
Jack S. Eng
Brian Watkins
Lynn Hendrickson
Anita Booker-Hay
Bob Liston
John Hanson Jr.

Michael Ratko
Knowrasa Patrick
Debra Hatzialexiou
Lionel Greaves IV
Leslie Johnson
Diana Cartwright
Jane Dale
Katherine Mason

Robert Silber
Chris Bishop
Ryan Miller
Rose Gundersen
Bob Battles
Jay Raish

BIIA Court Case Management System: Bob reported we are in the process of requesting funding for our legacy case management system. We submitted a decision package in the Governor's budget request, which was approved. If we are fully funded in the legislative process, we will put out a Request for Proposal in early July. This will be a 2.5-3-year process to replace. If you have any questions as we move forward, let us know.

Mr. Greaves: I commend the board for taking the step, stakeholders have been asking for it for years. Do you have a concept about how it will function, such as an interactive portal?

We are looking at an end-to-end portal so people have secure access to their file so it is a more transparent and user-friendly system. We hope to have more flexibility than we have in our current system.

Ms. Mason: I encourage as things move along to reach out to this group or a focus group and include non-computer literate individuals to help identify the needs of each user.

Rulemaking: Brian reported we submitted our agenda to the Washington State Register in December. We are looking at changing the rule on the mode of hearings. Our current rule takes a view of in-person hearings as the default. Over the last 2.5 years, experience has shown that video and phone hearings can be just as effective. Our hope in publishing that agenda is to see if more constituents want to comment and be involved in the process and let us know what you envision as a good BIIA rule on the topic. We also have some housekeeping rules to clean up some numbers and a change to clarify that the board has regular meetings every Tuesday.

Mr. Silber: what's our time period for commenting? Do you want us to send this to our constituents to get their feedback to you? Are you going to send out anything formal that we can respond to, or do you just want us to gather the info and send it to you?

We'll consider a formal survey, that's a good idea. Just to clarify, we are not in formal rulemaking at this time, we haven't drafted the rule. We are in the early stage and are asking if you want to have input on the draft, which you can email to brian.watkins@biia.wa.gov. Whenever we drop the formal rule (which won't be till after session) we'll definitely email and let you know the deadline for comment.

Mr. Bishop: Does the board have any requirements on how the judges are supposed to appear? By telephone, calls are dropping 2-3 times. Can you look into the telephone connection judges have because of these issues, such as using a landline to avoid interruptions?

Mr. Greaves: another thing to look at in the mediation process—a number of our folks that work with pro ses, they have comments about phone versus Zoom. Some courts have developed protocols re Zoom to maximize the experience. We might be able to develop best practices to enhance the experience for pro ses who don't have a voice in this process.

E-Service Agreements: Anita reported that the requirement to file the agreement with the Board suddenly appeared in the Ground Rules of the Litigation Order a year and a half ago, and we are looking at it.

- Some judges want it filed, they like knowing it exists
- Some wonder why is it required
- Some indicate we don't need it all the time, just when a self-represented party is part of an agreement

Ms. Dale: I'm curious as to the rationale behind instituting that policy? It may make sense with a pro se, but not for those with attorneys on both sides. If there is a problem with service on those cases, attorneys can address it.

Ms. Mason: on reflection, rather than it just showing up in the ground rules, this would be the place to vet the idea. What problem is this intended to solve? In 25 years I have never had a service issue.

Mr. Greaves: our experience in the same. We have a high volume, and we hardly ever have a service dispute. I agree with Ms. Mason, in the rare instance attorneys have an issue they can bring it forward.

Mr. Miller: we don't need more work and more red tape. If we have an issue you will know about it. For represented parties we don't need more requirements.

Brian: it was a reaction to something new with COVID when people working at home didn't have the ability to mail easily. For non-dispositive motions judges can rule within a certain amount of time of service and they had encountered questions about service.

The consensus of the group was it should be required to file the agreement with the Board only if there is a self-represented party.

Mailing Update: Anita followed up on her emails to stakeholders regarding issues with transmission of mail on December 22. Approximately 300 appeals were affected and we have moved to mail items or vacate orders as necessary. There were two problems: we tried to change an L&I mailstop before WaTech was ready for the change; and our staff didn't notice we had not received confirmation from the Department of Enterprise Services that they had received our transmittals. We have built in some layers of redundancy on those confirmations.

Mr. Miller: one of my clients was a victim of this in an epic way; Brian got back to me right away and fixed it swiftly!

Reminder, in addition to Brian you can also reach Anita at the Olympia office, Extension 1235.

Ms. Cartwright: it comes up regularly in our office. I'm one of the folks tasked with tracking down items not received. Thank you to Beth Blue for helping research items that disappear!

Anita noted sometimes items can't be tracked—there are items we confirm we transmitted to DES, and DES confirms it was handed off to Consolidated Mail, so the problem may lie with the USPS.

Ms. Mason: 10 years ago or so we had problems with Department mail. It helped to keep the envelope with postmarks and barcodes to help track down problems with the USPS.

Ms. Cartwright: Some of our mail is received via campus mail, not always through USPS. We're seeing this happening with regularity. After the upgrade to the case management system, perhaps a change to electronic service will fix this problem.

Mr. Silber: thank you for your quick response on this issue. It was really helpful to us to know you were looking at the small and big pictures.

Seattle Office: Anita reported we have started the process to move the Seattle office from downtown and create Seattle North and Seattle South offices.

Mr. Battles: Are two offices a cost savings? What can we do to help you in this process? I'm curious how it will affect assignments? Is it just that the physical locations are available for hearings?

There will be a cost savings because we will actually be using less space. Some judges will be assigned North and some South, and hearings will be held in both places. We hope that it will be easier to access these buildings—safer, better parking, and access to public transportation.

Mr. Silber: Northgate light rail access is a great idea. Is the Everett office going to stay open?

Yes, Everett will remain open.

Ms. Dale: will there be a gap? Will the new offices take into consideration COVID risks, such as increasing filtration?

There will possibly be a small gap. If so, we will secure space in other areas to hold hearings. We work with state real estate services and they have basic state standards for filtration and they call for higher level filters. Regarding cost, we have about 15000 square feet downtown and we'll move

into approximately 5000 sf for each office. Cost per sf is less in those areas than downtown.

Mr. Miller: good riddance to the downtown Seattle office!

Stakeholder Q&A:

Mr. Greaves: kudos to judges, such as Dalton and Leech, who send courtesy emails, it helps parties be more nimble. We are looking forward to working with AC Redman on mediation processes.

Congrats to Leslie for 34 years of state service. Enjoy retirement!

Mr. Silber: now that we having more live hearings, how is it going?

There hasn't been a groundswell of more live proceedings. In anticipation of hybrid events, we are making a concerted effort to make sure there isn't a technological delay. A lot of the cases set for live hearings have ended up settling. Please reach out if you see a technological glitch we haven't covered.

Ms. Mason: Dee Benton often sends us updated contact list and she is really on top of it. We get updated list regularly.

Ms. Dale: appreciate your willingness to hear our feedback and be willing to pivot on the video hearings.

Ms. Miller: Board is consistently listening to us and trying to do what the parties want. You didn't miss a beat.

Mr. Bishop: appreciate everyone's patience as we work through these things. Recently had first live hearing in a while. When are the 2022 significant decisions are coming out?

We are working on them now.

Ms. Gundersen: looking forward to the new hybrid world.

Mr. Battles: thanks to Rose for joining us. We appreciate the Board's transparency on the mailing issue. Number one bar complaint was always failure to communicate. As you return to hybrid, it's making an impact on the ability to communicate statewide.

Ms. Hatzialexiou: grateful for the transparency and email communications from Anita. Eliminating paper between agencies will be good, thank you for working on that.

Mr. Ratko: we appreciate being involved in these meetings, thank you.

Ms. Patrick: thank you, nothing to add.

Anita: thanks to Ryan Gompertz for going out of his way to accommodate a self-represented party. Regarding an item from past meetings, we did some further analysis on proposed decisions in contested workers' compensation cases: of 817 orders issued in the last three quarters, the average lag time was 45 days.

Holly: thanks to Anita for the quick research and communication of the mailing issues.

Isabel: thanks also to Brian for swiftly addressing the mailing issues.

Jack: thank you to stakeholders for participating in these meetings. We try to keep improving and we appreciate your input.

Next meeting: We proposed May 19, 2023, at 10 a.m. Please email jay.raish@biia.wa.gov if you have conflicts.

Adjournment: The meeting was adjourned at 11:20 a.m.

Respectfully submitted,

/s/

Jay Raish,
Confidential Secretary