

# 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 like that 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 *Kingsstad 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, 2024 (FY24), the most recent fiscal year for which there is an audit report. (A copy of the audit report can be found at: [wisbar.org/auditreport](http://wisbar.org/auditreport).)

The committee scrutinized all State Bar activities during FY24 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 \$190,407 of dues was expended on nonchargeable activities during FY24.

## §2.0 Dues Reduction for FY26

Each State Bar member’s FY26 pro rata portion of the dues devoted to nonchargeable activities was calculated by a process that involved translating the anticipated total dues paid for FY26 (before reduction) into the equivalent number of full dues payments. The State Bar estimates that there will be 25,947 State Bar members in FY26 paying various levels of dues that translate into 20,235 full dues payment equivalents. Dividing \$190,407 (the total dues devoted to nonchargeable activities in FY24) by 20,235 (the number of full dues payment equivalents) results in a pro rata reduction of \$9.41 for members paying full dues.

Although strict calculation results in an available dues reduction of \$9.41 for members paying full dues, the Board of Governors voted to set the available dues reduction at \$9.80 for members for the fiscal year beginning July 1, 2025 (FY26). [Active members admitted to practice on or before April 30, 2023, voting judicial members, and Supreme Court justices can withhold \$9.80; active members admitted to practice for 3 years or less (in this case, on or after May 1, 2023), senior active and inactive members can withhold \$4.90; nonvoting judicial members can withhold \$6.53.] The purpose of setting the dues reduction at the higher amount of \$9.80 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 FY24 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, FY24. The State Bar reviewed all FY24 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 *InsideTrack* 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 FY24 is calculated as follows:

Activity	Cost of Nonchargeable Activity	Portion Funded by Dues
Board of Governors	\$31,365	\$25,567
Legislative Activities	33,726	27,490
Annual Meeting & Conference	0	0
ABA Delegates	12,753	10,395
ABA Lobby Day	162	132
Division ABA	1,745	1,422
Government Lawyers Division	2,959	2,412
Non-Resident Lawyers Division	2,715	2,213
Wisconsin Lawyer Magazine	42,968	35,024
Legislative Oversight Committee	4,346	3,543
Executive Committee	770	628
Board of Governors Policy Committee	120	98
InsideTrack	3,554	2,897
Grassroots & Rotunda Report	13,818	11,263
Sections	30,179	24,599
Young Lawyers Division	8,701	7,093
Young Lawyers Conference	0	0
Senior Lawyers Division	817	666
Social Media/WisLawNow	5,792	4,721
Bottom Up Podcasts	4,956	4,040
ABA Democracy Task Force	26,470	21,576
Local Bar Relations Roadshow	957	780
Legal Assistance Committee	0	0
Listening to Lawyers WisLAP Podcasts	4,237	3,453
Non-Resident Lawyers Division Summer Mtg	485	396
<b>Total Cost of Nonchargeable Activities</b>	<b>\$233,595</b>	
<b>Total Dues Devoted to Nonchargeable Activities</b>		<b>\$190,407</b>



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A brief description of these FY24 nonchargeable activities follows.

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

**Government Relations Activities.** While not all lobbying activities are non-chargeable under a *Keller* analysis, the State Bar of Wisconsin Board of Governors unanimously approved at its February 9, 2018 meeting a policy in an effort to ensure it is protecting the first amendment rights of its members including those who take the annual *Keller* dues reduction. As a result, “it is the policy of the Board of Governors to include in its annual calculation of expenditures deemed non-chargeable to mandatory dues those expenditures that relate to activities which constitute direct lobbying on policy matters before the Wisconsin State Legislature or the United States Congress. The State Bar of Wisconsin Board of Governors adopts as policy and directs the Executive Committee to include with the annual dues reduction under SCR 10.03(5)(b), in addition to other expenditures deemed non-chargeable, the amount of expenditures related to State Bar lobbying of public policy matters under the Federal positions and SBW positions codes used by the State Bar timekeeping system, regardless of whether they would otherwise qualify as chargeable under a Wisconsin *Keller* dues analysis.”

During FY24, work on the following legislative topics/issues are thus included as non-chargeable activities:

- All direct lobbying activities
- All direct grassroots lobbying activities
- Rotunda Report newsletter
- Liaison to the Wisconsin Uniform Laws Commission
- Preparation of the Public Affairs Policy Book
- Scales of Justice Award

#### State Bar of Wisconsin:

#### STATE ISSUES:

Expungement of Criminal Records  
Juvenile Court Jurisdiction (Second Chance/17-year-olds Raise the Age)  
The Use of Cash Bail and Pretrial Reform  
Judicial Security  
Overall Funding of the Criminal Justice System  
Pay Progression for Publicly Employed Attorneys  
Funding and Positions for the Prosecutors’ Offices  
State Public Defenders’ Office Reimbursement to Private Bar  
State Civil Legal Services Funding  
Court Funding (SBW)  
Elimination of the Judicial Council/Funding  
Student Loan Relief/Law School Debt  
Wrongful Conviction Compensation

Bankruptcy, Insolvency & Creditors Rights:  
13 Week Garnishments

Business Law:  
Uniform Fraudulent Transfers Act  
Self-Settled Trusts

Children & the Law:  
Permanency Plans  
Juvenile Life Without Parole  
Preadoption Training  
Open Adoption Reform  
Adoptee Access to Birth Records

Civil Rights and Liberties  
Transgender Rights  
Constitutional Convention  
Joe Doe Proceeding in Criminal Matters

#### Construction & Public Contracts:

Revisions to Lien Laws  
Utility Regulation  
Criminal Law:  
Definition of Sexual Contact  
Mandatory Minimum Sentence for Felon in Possession of a Firearm  
Felony Operating a Motor Vehicle Under Revocation or Suspension

Elder Law:  
Elder Abuse Including in Financial Transactions  
Advanced Directives  
Powers of Attorney  
Definition of Next of Kin  
Self-Settled Trusts

Criminal Law:  
Definition of Sexual Contact  
Mandatory Minimum Sentence for Felon in Possession of a Firearm  
Felony Operating a Motor Vehicle Under Revocation or Suspension

Family Law:  
Divorce by Affidavit  
Parental Rights  
Mandatory Parenting Classes  
Notification Requirements When Income Changes

Public Interest Law:  
13 Week Garnishments

Real Property & Probate:  
Remote Notary/RULONA  
Uniform Trust Code  
Self-Settled Trusts

Taxation:  
Tax Code Section 1202

**Board of Governors:** Executive Director report on Juneteenth Day, updates and position recommendations from the State Bar Government Relations team, reports on ABA activities, ABA House of Delegates, ABA American Democracy Taskforce, reports from State Bar Presidents regarding legislative advocacy meetings they attended and the Scales of Justice Award Ceremony.

**Government Lawyers Division:** Expenses in connection with reporting of lobbying activities and a grassroots overview.

**Young Lawyers Division:** Expenses in connection with reports of ABA activities and volunteer opportunities along with a grassroots and lobbying overview.

**Nonresident Lawyers Division:** Expenses in connection with a virtual cookbook.

**Senior Lawyers Division:** Expenses in connection with teaching non-lawyer responsibilities of being a board member for a non-profit.

**Section Lobbying and Administrative services:** Expenses over and above the fees collected related to lobbying and administrative services provided by the State Bar of Wisconsin to the 24 sections.

**ABA American Democracy Taskforce:** Staff costs associated with the planning of this event which will be held in FY25.

**Inside Track:** Expenses in connection with the following articles:

- August 2023 article titled “Supreme Court Decision Spotlights Issue of Compensation for Exonerated”
- August 2023 article titled “How Lawyers Can Be Agents of Change”

- October 2023 article titled “Control Health Care Costs with State Bar’s Group Plan for Law Firms”
- November 2023 article titled “Imposter Syndrome Has a Silver Lining”
- November 2023 article titled “It’s Medicare Open Enrollment: How to Explore Your Options”
- December 2023 article titled “State Bar Association Health Plan May Work for You”
- December 2023 article titled “It’s OK to Be Not OK Over the Holidays and Where to Get Help”
- January 2024 article titled “Q&A with Wisconsin Attorney General Josh Kaul”
- January 2024 article titled “New Discount Program from The Computer Center”
- February 2024 article titled “Attorneys Come Together to Support Black Cultural Center”
- February 2024 article titled “Support the Center for Black Excellence and Culture”
- May 2024 article titled “Law Day: Voices of Democracy in Times of Change”
- June 2024 article titled “ABA Task Force on American Democracy Listening Tour July 9th”
- June 2024 article titled “New Discount Program Helps You Create a Professional Website in Minutes”

**Bottom Up Podcasts:** Expenses in connection with the following podcasts:

- Episode 16: “Helping Victims of Human Trafficking, a Hidden Crime”
- Episode 19: “Stress, Sleep Deprivation, and Lawyer Wellness”

**Social Media:** Posts to the State Bar’s multiple social media accounts across several platforms that were of general interest and not specifically related to the practice of law.

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

**Board of Governors Policy Committee:** All committee meeting time and expenses.

**Local Bar Relations Roadshow:** Expenses related to a legislative update and networking portion of the event with legislators.

**Wisconsin Lawyer Magazine:** Pages devoted to the following articles:

- “A Template for Success” by Larry J. Martin
- “What Does Independence Day Mean to Me?” by Kimberley C.Y. Motley
- “Being a Legislative Advocate is as Easy as Three Clicks or a Phone Call” by State Bar Lobbying Team
- “Qualified Immunity: A Dubious Doctrine & a 21st Century WI Solution” by Jeff Scott Olson
- “Civil Legal Aid: \$176 Million Impact” by Jeff M. Brown
- “Morocco: A WI Judge’s Perspective” by Hon. Thomas J. Walsh
- “Empowering Attorneys to Create a Career They Love” by Julie Bonasso
- “How to Measure Your Digital Marketing & Set Some Goals” by Emily Stever Kelchen
- “Moving the Profession Forward: Support Civic Education” by Dean R. Dietrich
- “Pardons in WI: Eligibility, Implications and Best Practices for Attorneys” by T. Forman, B. Edelstein & M. Sprecher

- “Tech Toys for the Holidays” by Michael J. Eichacker
- “Just Breathe” by Amber Ault
- “Q&A with Wisconsin Attorney General Josh Kaul” by Jeff M. Brown
- “The Power of Ikigai: Unveiling Purpose for Lawyer Well-Being” by Julie Bonasso
- “Pick Your Winner: 2024 Smartphone Lineup” by James Pearson
- “In It for the Long Haul-Criminal Justice Reform Doesn’t Happen Overnight” by State Bar Lobbying Team
- “Coming Together to Improve Our Criminal Justice System” by Kelli Thompson
- “Guardians of the Rule of Law” by Larry J. Martin
- “Keeping Recipients in Poverty: Supplemental Security Income Asset Limits” by Kelsey Brown
- “Sponsorship: The Art of Advancing Others” by Deanne M. Koll
- “Mastering Data Resilience and Business Continuity” by James Pearson
- “New Maps Bring New Challenges and Opportunities” by Larry J. Martin
- “Citizens Utility Board of Wisconsin” by Cara Coburn Faris
- “To Change the World: Meditation and Mindfulness in Your Practice” by Amber Ault
- “State Bar Advocacy: Creating Good Policy Is Good Politics” by State Bar Lobbying Team
- “Continue to Honor Those Who Paved the Way” by Roy B. Evans
- “The Quiet Odyssey: Navigating the Silence Within” by Emil Ovbiagele
- “State Bar Achieves Much in the 2023-24 Legislative Session” by State Bar Lobbying Team
- Any pages containing reviews of books whose subject matter was determined to be not specifically related to the practice of law
- Every page in the magazine that included an ad to engage in the State Bar Advocacy Network

**Listening to Lawyers WisLAP Podcasts:** Listening to Lawyers WisLAP Podcasts: Expenses in connection with the following podcasts:

- Attorney discusses their history with alcoholism from law school through career and decision to get sober
- Attorney discusses their experience with cancer and volunteering with WisLAP
- Former attorney discusses role as a caregiver to wife with dementia

**Executive Committee.** Executive Director reports on the ABA American Democracy Taskforce, the Local Bar Roadshow, reports from and elections of the ABA House of Delegates, and reports from State Bar Presidents regarding legislative advocacy meetings they attended.

#### **\$4.0 Deadline for Arbitration Requests**

Any member who wishes to call for arbitration of the amount of the dues reduction permitted for FY26 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 1, Section 5 of the State Bar bylaws, which are available on wisbar.org and wicourts.gov.

**Payments are due no later than July 1, 2025.**

**Payments received after July 1, 2025 may be subject to late fees.**