

**BOARD OF BAR COMMISSIONERS
FEBRUARY 8, 2002, MEETING MINUTES
Bar Center
Albuquerque, New Mexico**

MEMBERS PRESENT:	Daniel J. Behles B. Paul Briones Sandra B. Byer Robert D. Castille James H. Dawdy, Jr. Virginia R. Dugan David N. Hernandez A. Drew Hoffman Trent A. Howell Dennis E. Jontz	Richard L. Kraft Russell D. Mann Daniel J. O'Brien Monica M. Ontiveros Donald C. Schutte Mary T. Torres Charles J. Vigil Elizabeth E. Whitefield Carolyn A. Wolf
MEMBERS ABSENT:	Colin C. Alcott Jane Shuler Gray John S. Stiff	
OTHERS PRESENT:	Rudy S. Apodaca Kris Becker Cheryl Bruce Maggie Gombos Christine Halter	Sandy McKay Madonna Rutherford Joyce Stowers Todd Wertheim Marcia Wilson

1. Approval of December 7, 2002, Meeting Minutes

Commissioner O'Brien made a motion to approve the December 7, 2001, meeting minutes. Commissioner Hoffman seconded, and the motion passed.

2. President's Report

President Torres reported on the following:

- A.** The People to People Conference in South Africa and its benefits with regard to both legal aspects and society in general.
- B.** Federal judges Christina Armijo, Chip Johnson and Harris Hartz were honored at receptions co-sponsored by the State Bar.
- C.** Commissioner Dan Behles would host a reception for board members and judges at his home following the meeting.
- D.** Visits to several local and voluntary bars have been scheduled this year, and Executive Director Cheryl Bruce will accompany her on as many visits as possible.
- E.** The annual judicial reception honoring new judges, co-sponsored by the Albuquerque Bar Association, will be held on February 12th. Board members were encouraged to attend.
- F.** During the keynote luncheon at the National Conference of Bar Presidents (NCBP) held on February 1st in Philadelphia, United States Supreme Court Justice Kennedy presented his "Dialog on Freedom" initiative. The program will bring together students and lawyers to focus on freedom and democracy.
- G.** She recently addressed first-year law students at UNM speaking on professionalism. President Torres is also scheduled to speak to law students during "Ethics Week" at the Law School in March.

- H. The Law School has asked that the rental fee for use of the Bar Center be waived for a fundraiser hosted by the National Association of Public Interest Lawyers on March 30th. President Torres will refer the waiver request to Cheryl Bruce to handle.

3. Executive Director's Report

Executive Director Cheryl Bruce reported the following:

- A. Ms. Bruce welcomed back Board members for the first meeting of 2002, and congratulated and welcomed new members and the 2002 officers.
- B. She attended a two-day retreat for Executive Directors of State Bars, hosted by LexisNexis, and held in Dayton, Ohio in early January. LexisNexis announced new member benefits supporting solo and small firms, and suggested ways in which bars could partner with them to market these new services.
- C. State Bar section and division chairs have been invited to attend an orientation to be held on February 22nd. The session will focus on strategic planning, developing a budget, marketing and membership recruitment.
- D. Commissioners were asked for their preference with regard to transmitting board meeting materials and other information. Following discussion, the Board asked that a fax poll with transmission options be sent to Board members. Ms. Bruce noted that the estimated savings by sending Board materials and the *BBC Newsletter* electronically would be substantial.
- E. The 2002 Roehl Circle of Honor inductees were honored on February 6th at a reception by invitation only. Those honored included Gene Gallegos, Bryan Johnson, Arturo G. Ortega, Harold Hensley, and Richard (Dick) Ransom.
- F. The Professional Liability Insurance Committee is working on a survey to send to State Bar members to determine how many do not have malpractice insurance. She reminded the Board that Justice Franchini served on a Board task force in 2000 that studied Client Protection issues and making malpractice insurance reporting mandatory. The Committee discussed requesting that the court prepare a cover letter to accompany the survey. ANLIR, the State Bar's endorsed professional liability insurance carrier, and Carroll and Associates, the new ANLIR broker, will likely cover the expenses related to conducting the survey. Ms. Bruce also reported that she met with Fred Carroll, the CEO of Carroll and Associates, on February 4th to discuss marketing ideas to inform the members of the change in the brokerage agreement from Health Agencies of the West to Carroll and Associates.
- G. Approximately 1,000 members had not paid dues at the time of the meeting.
- H. Updated membership demographic data would be sent electronically to Board members.
- I. The National Association of Bar Executives (NABE) Midyear Meeting was held January 29 – February 2nd in Philadelphia. The focus theme for the entire conference and all the programming was on leadership, and she and Rick Kraft led a session on how to develop a Lawyers' Leadership Training Institute, similar to the program offered by the State Bar last fall.
- J. The ABA's Bar Leadership Institute (BLI) and the Western States Bar Conference will be held in March. She and President-elect Alcott will attend BLI (a training conference geared specifically on programs and skills for presidents-elect), and all of the officers and Cheryl Bruce will attend the Western States Bar Conference.
- K. Ms. Bruce will serve as a judge for the regional mock trial competition on February 16th.
- L. The State Bar audit has started and will be completed by the April Board meeting.
- M. The call for nominations for annual awards has begun, and the notices will be announced in *Bar Bulletins through the months of February and March*. Award recipients will be selected by the Board at the April Board meeting.
- N. The next issue of the *Bar Journal* will be published in late March or early April, and an article on President Torres' South Africa trip will be the lead feature story. Commissioners were encouraged to consider submitting articles for future issues of the *Bar Journal*.
- O. Division directors are developing standardized job descriptions for all staff.

- P. Two interns have been working at the Bar assisting the Systems Manager and the Pro Bono and Referral Division.
- Q. Board members were urged to make hotel reservations in Sedona for the Annual Convention in July.
- R. The results of the Compensation and Benefits Survey will soon be available, and the report will be available for purchase by members of the State Bar.
- S. The Bar has received favorable press recently including interviews with newly-elected President Torres and with Becky Jiron, managing staff attorney for the Lawyer Referral for the Elderly Program.
- T. Section and committee 2001 annual reports were distributed.

4. Report on Executive Committee Meeting and Recommendations Regarding the Task Force on the Advisability of Adopting a Death Penalty Moratorium

President Torres reported that, on January 10th, the task force asked permission to request funds from the state legislature to conduct a proportionality study. Due to the short session and the late request for permission to lobby the legislature, a meeting of the Executive Committee was called. After reviewing the budget disclosure procedures and the Bar's Bylaws regarding lobbying, the Executive Committee determined that there was not enough time to disclose to the membership the intent to lobby and to go through the proper lobbying procedures required by the Bylaws prior to the end of the legislative session. The Committee, therefore, voted not to approve the task force's request. Commissioner Vigil moved to approve the action of the Executive Committee. Commissioner O'Brien seconded, and the motion passed.

Discussion regarding the mission of the task force followed, with questions addressed to members of the task force who were in attendance at the Board meeting (The Honorable Rudy Apodaca, Marcia Wilson and Todd Wertheim). Commissioner Dugan requested clarification as to the name and mission of the task force. Todd Wertheim informed the Board that the name of the task force, as previously approved by the Board, was "Task Force on the Advisability of Adopting a Moratorium of the Death Penalty."

Commissioner Vigil expressed concern on the name of the task force and expressed concern regarding the work of the task force, in the event that, after extensive time and study by the task force, the Board could not take action on final recommendations. He noted that, because of ideological/*Keller* issues, the Board would not be able to recommend a moratorium, nor would it be able to recommend that there not be a moratorium. Mr. Wertheim assured the Board that no money would be spent, and therefore there would not be any issues with *Keller*. He further stated that the task force was carrying out a request by the ABA for state bars to study how the death penalty was being administered.

Further discussion followed regarding the implications if a proposal were to be made on behalf of the State Bar even if no membership dues money would be used. It was questioned whether or not the study could be objective and neutral when the word "moratorium" was not neutral and would definitely contain or imply ideological concerns. Judge Apodaca stated that the word "advisability" was neutral and that the report would not include a request or recommendation for a moratorium. Rather, the report would identify issues relating the legal system and the process of administering justice throughout the state.

Mr. Wertheim reported on the four subcommittees of the task force and explained the role of each. The subcommittees are as follows:

- Proportionality
- Adequacy of Representation
- Post Conviction Review
- Trial Procedures

Marcia Wilson provided a status report on the work of the subcommittees. She stated that a 35-page report was almost complete on proportionality in the charging and sentencing of death penalty cases. Because little is known about the history of death penalty cases in New Mexico, the task force proposes that its study will show whether or not cases were handled legally, fairly and correctly. The Adequacy of Representation and Post Conviction Review Subcommittees have not completed their reports.

President Torres explained that, according to Board policy and the *Popejoy* decision, and if the task force still wants to request authorization to seek legislative funds to pay for a proportionality study, the Bar would need to disclose the intent to lobby for funds to all members of the State Bar in the 2003 budget disclosure, thus allowing any member to object or challenge through the budget disclosure and *Popejoy* process. She asked Ms. Wilson if the task force would be willing to wait until 2003 to do the study, and Ms. Wilson replied that they would. Judge Apodaca reiterated that the study would be contracted out to a third party.

Further discussion ensued among Board members regarding the Board's authority over task forces, since these groups are a creation of the Board. Commissioner Vigil made a motion that the task force change its name to "Task Force to Study the Administration of the Death Penalty in New Mexico" and that the task force agree to refrain from making political or ideological recommendations in their final report. Only procedural recommendations as to the administration of justice would be made. Commissioner Ontiveros proposed an amendment to the motion so that the motion would be stated in a positive manner as to what the task force will provide. Executive Director Cheryl Bruce reworded the motion to state that the mission of the task force would be to study and analyze the data, and submit a report that may include recommendations to improve the administration of justice. Commissioner Behles seconded the amended motion. Following a vote, the motion passed with eleven in favor and five opposed.

Ms. Bruce inquired if funding for the proportionality study could be obtained from other sources, other than the state. Ms. Wilson replied that funding could come from other groups, such as the Criminal Defense Association and Defense Attorney's Association. Ms. Bruce advised the Board of the need to address whether Special Projects, Inc., would be the recipient of a grant, and asked what should be done to keep the task force on track with the mission as directed by the Board. President Torres announced that she would attend the next meeting of the task force to explain the directives from the Board regarding the name change, clarification on mission, work to be done within the scope of that mission and the Board directives, and the final report of the task force.

5. Report from Finance Committee

Secretary-Treasurer Vigil reported on the following matters discussed and action taken by the Finance Committee at the December 7, 2001, meeting:

- A. The financials were reviewed and accepted.
- B. The 2002 budget for Special Projects, Inc., was approved.
- C. Fee waiver requests were reviewed for members over 70 years of age or whose incomes were less than \$20,000 per year. Two requests from armed service members prompted a proposal to amend the board policies and/or bylaws. Commissioner Vigil moved to have the Policy/Bylaws Committee consider waiving the fees for active duty military personnel. Commissioner Wolf seconded, and the motion passed. A policy and Bylaws amendment will be drafted by management and presented for approval at the next meeting.
- D. West Group paid \$8,000 in outstanding advertising debt in compliance with the new accounts receivable policy.
- E. Both the proposed Paid Time Off (PTO) and Employee Education and Training policies were tabled until the next Board meeting since adequate review, research and drafting revisions had not yet taken place.
- F. A plan to increase the Web revenue was approved. Firm Pages will be sold at a cost of \$300 for firms with zero to ten members, \$400 for firms with 11 to 20 members, and \$500 for firms with more than 21 members. Firms purchasing a page will also receive a 50 percent discount on Attorney Pages for individual members of the firm. Commissioner O'Brien moved to approve the proposal. Commissioner Hernandez seconded, and the motion passed.

6. Acceptance of Financials

Commissioner Wolf moved to accept the November 2001 financials. Commissioner O'Brien seconded, and financials were accepted.

7. Approval of Sale of Membership Database

This item was tabled until the next Board meeting.

8. Approval of Client Protection Fund Claim

Executive Director Cheryl Bruce recommended that, since the claimant produced no receipts or verification, the request should be denied. Commissioner O'Brien moved to reject the claim. Commissioner Hernandez seconded, and the motion passed.

9. Approval of Request to Join in Amicus Curiae Brief

Executive Director Cheryl Bruce reported that the Executive Committee recommended that the Board sign a resolution for amicus curiae briefs if the National Association of IOLTA Programs decides to pursue the matter. Commissioner Hoffman moved to approve the recommendation, and Commissioner Castille seconded. Commissioners Schutte and Dawdy voiced objections in that favoring this proposal signifies voting against one's own client's interest. Following a vote with eight in favor and four against, the motion passed.

10. Recommendations on Web Site Redesign

President Torres reported on the Strategic Planning Committee's review and analysis of proposals for Web site enhancements from West, Oso Grande and Indepth Learning. The committee recommended approval of the proposal from Oso Grande which totals approximately \$72,000, and includes unveiling the site at Annual Convention. President Torres requested that the Board 1) approve the committee's selection of Oso Grande and trust its recommendation based on many hours of analysis; and 2) approve a project advisory committee to continue to oversee the project now that the Strategic Planning Committee has completed its responsibilities on this endeavor. Commissioner Vigil moved to approve both items, and Commissioner Wolf seconded.

Several questions followed as to the details of payment terms, contract duration and the history of questionable quality of service from the vendor. Several commissioners questioned being asked to approve a contract without reviewing it. President Torres reminded the Board that, at the Long Range Planning Retreat in Cloudcroft, the Board delegated the authority to enter into a contract to the Strategic Planning Committee. Further debate centered on the question of micromanagement by the Board, the composition of the Strategic Planning Committee, and how the decision on the winning bid was handled. President Torres assured the Board that an intellectual property attorney from the Modrall firm would review the contract prior to entering into a contract. Commissioner Castille recommended that the Board not "reinvent the wheel" after the extensive work of the Strategic Planning Committee. Following a vote, the motion passed.

11. Approval of Employee Education and Training Policy

This item was tabled during the report from the Finance Committee.

12. Approval of Paid Time Off (PTO) Policy

This item was tabled during the report from the Finance Committee.

13. Consider Amendment to Bylaws RE: Executive Committee

President Torres requested approval to amend the Bylaws to add the immediate past president to the membership of the Executive Committee due to the institutional knowledge and experience a past president has on State Bar issues. Commissioner Hoffman moved to approve the recommendation, and

Commissioner Dugan seconded. Executive Director Cheryl Bruce asked that the Bylaws Committee review the amendment, and reminded the Board of the 30-day notice of proposed amendments prior to formal adoption of a Bylaws amendment. She noted that this meeting and approval of the proposed amendment would serve as the required notice, and that the amendment could then be formally approved at the next meeting. Commissioner Wolf suggested including more members on the Executive Committee, and Commissioner Briones suggested that instead of adding the immediate past president, the President could appoint another member of the Board. The motion to include the immediate past president passed by a vote of nine in favor and four against.

14. Appointment of Board Liaison to Serve on the Center for Civic Values Board

Commissioner Stiff has served as the Board of Bar Commissioners liaison on the Center for Civic Values Board for the past two years. President Torres asked for volunteers to serve as the new liaison. Commissioner Wolf volunteered and was appointed to serve as the Board's liaison to the Center for Civic Values Board.

15. Report on Commission on Professionalism

President Torres reported on the preview of the Commission on Professionalism 2002 course. Mitch Winick, Assistant Dean of External Affairs at Texas Tech University School of Law, along with Jan Gilman-Tepper and Stephen E. Doerr, will serve as the faculty panel for the program. The program will focus on interpreting the Creed through different communication styles. President Torres also announced that she would submit an Op-Ed piece to the *Albuquerque Journal* and include a copy of the Creed, in response to a letter to the editor published in the *Albuquerque Journal* criticizing the profession and President Torres' named 10 goals. She also reported that on March 28th, she will participate in Ethic's Week at the UNM School of Law and speak on professionalism. She invited members of the Board to attend.

16. Report on Annual Convention

Associate Executive Director Christine Halter reported on the progress of planning for the Annual Convention. According to a recent count, only 100 rooms remained at the Hilton Sedona Resort for Thursday and Friday night. Ms. Halter is researching additional social and family guest options including plans for a family afternoon to be held on Friday. She reported that Steve Meilleur is working on speakers for CLE plenary sessions and is drafting a proposed CLE schedule for discussion by the Annual Convention Planning Committee.

17. Reports from Divisions

A. Young Lawyers Division

YLD Chair Trent Howell reported on activities of YLD planned for 2002. He recently attended the Texas Bar Convention and met with the Texas YLD Board. He is working with Chair-elect Melanie Patten to coordinate events with the Arizona YLD during the State Bar of New Mexico's Annual Convention. The division has formalized its committees and has been successful in obtaining volunteers from members outside of its board of directors. Upcoming activities include a mock interview program, Law Day, KOB call-in show, and a resurrected mentor program with the UNM School of Law.

B. Senior Lawyers Division

SLD Delegate Dan Behles moved to approve the 2002 budget of \$1500 for the Senior Lawyers Division. Commissioner Dugan seconded, and the motion passed.

C. Legal Assistants Division

LAD Chair Sandra Byer reported that membership had decreased 50 percent, according to the dues received by the January 19th board meeting. She announced that the division co-sponsored "Effective Legal Practice: Strategies and Techniques for Improving Efficiency in Litigation Practice, and Estate and Trust Practice" with the State Bar's Center for Legal Education on Saturday, January 19th.

18. Report on Leadership Training Institute

Commissioner Kraft reported that, during the previous week, he and Executive Director Cheryl Bruce presented a program at the National Association of Bar Executives (NABE) Midyear Meeting in Philadelphia instructing attendees on how to develop a Leadership Training Institute for bar members. At the time of the meeting, the State Bar of New Mexico was the only state bar with such a program. He announced that 21 students graduated from the 2001 Institute and that Carolyn Ramos was elected class president. An article in the winter *Bar Journal*, written by Communications Division Director Sandy McKay, was the first step in recruitment of attendees for the 2002 Leadership Institute.

19. Report on Updated Article on Soldier's and Sailor's Act

Commissioner Hernandez reported that Federal Court Chief Judge James Parker's clerk updated the Soldier's and Sailor's Relief Act, and that the article will be posted on the State Bar and Federal Court's Web sites.

20. New Business

- A.** Commissioner Briones, liaison to the MCLE Board, informed the Board of Bar Commissioners that there was a growing problem with advertised CLE programs that had not been approved for MCLE credit. Since members assume that all CLE programs are offered by the State Bar, he urged that a disclaimer be added. Executive Director Cheryl Bruce replied that the State Bar has a disclaimer.
- B.** President Torres announced committee appointments as follows:
- Policy and Bylaws Committee:
Virginia Dugan (Chair), Donald Shutte, and Charles Vigil
 - CLE Oversight Committee:
Carolyn Wolf (Chair), Paul Briones, and Dan O'Brien
 - Annual Awards Committee:
David Hernandez (Co-chair), Elizabeth Whitefield (Co-chair), Robert Castille, and Dennis Jontz

There being no additional new business, the meeting was adjourned.

**BOARD OF BAR COMMISSIONERS
APRIL 26, 2002, MEETING MINUTES
Bar Center
Albuquerque, New Mexico**

MEMBERS PRESENT:

Colin C. Alcott	Dennis E. Jontz
Daniel J. Behles	Richard L. Kraft
B. Paul Briones	Daniel J. O'Brien
Sandra B. Byer	Monica M. Ontiveros
Robert D. Castille	Donald C. Schutte
James H. Dawdy, Jr.	John S. Stiff
Virginia R. Dugan	Mary T. Torres
Jane Shuler Gray	Charles J. Vigil
David N. Hernandez	Elizabeth E. Whitefield
A. Drew Hoffman	Carolyn A. Wolf
Trent A. Howell	

MEMBERS ABSENT: Russell D. Mann

OTHERS PRESENT:

Angelica Anaya-Allen	Christine Halter
Kris Becker	Tom Keleher
Terisa Blunt	Nancy Koenigsberg
Cheryl Bruce	Sandy McKay
Maggie Gombos	Madonna Rutherford
Michelle Grisham	Joyce Stowers
Brandon Haines	Wilson Yellowhair

1. Approval of February 8, 2002, Meeting Minutes

Commissioner Alcott made a motion to approve the February 8, 2002, meeting minutes. Commissioner O'Brien seconded, and the motion passed.

2. President's Report

President Torres reported the following:

- A.** She attended the Western States Bar Conference, along with the other officers and Executive Director Cheryl Bruce, in Las Vegas, Nevada, March 13–16th.
- B.** Dialogue on Freedom, a new high school program in remembrance of September 11th conceived by United States Supreme Court Justice Anthony Kennedy and First Lady Laura Bush is being sponsored by the ABA and state and local bar associations across the country. President Torres was appointed to serve on Justice Kennedy's Steering Committee, and she is responsible for enlisting the participation of all state and local bar associations in this program that places lawyers and judges in schools to discuss fundamental democratic principles. The first New Mexico classroom program will be held on Law Day, May 1st, at Albuquerque High School.
- C.** She and Executive Director Cheryl Bruce attended a meeting of the Task Force on the Death Penalty to reiterate and explain the Board's directives; and following a lengthy discussion, the Task Force voted to follow the directives of the Board.
- D.** The State Bar spearheaded a law-related education meeting on April 10th with several voluntary bar associations to brainstorm ways legal organizations could work with the State Bar and the new Bar Foundation to move forward on new public education initiatives. President Torres requested the Board's approval to engage in law-related education outreach and to pursue possible new programs for consideration during the 2003 budgeting cycle. President-elect Alcott made a motion to approve the request. Commissioner Dugan seconded, and the motion passed.

- E. The Hispanic Bar Association requested funding from the State Bar to cosponsor a retirement reception for Supreme Court Justice Joseph Baca on July 12th at the Sheraton Old Town in Albuquerque. Commissioner O'Brien made a motion to cosponsor Justice Baca's retirement reception in the amount of \$250 and to provide limited in-kind production and staff assistance. Commissioner Ontiveros seconded, and the motion passed.
- F. As co-chair of the Commission on Professionalism, President Torres announced that she would be combining her visits to local and voluntary bars with presentations of the professionalism course. She is scheduled to visit Taos on October 2nd and is in the process of scheduling visits to Clovis and Farmington.
- G. She announced that there would be a reception following the Board meeting at Commissioner Hernandez' home and reminded Board members to RSVP in the future in order to assist in planning. She inquired as to whether Commissioners were still interested in having receptions following Board meetings. Following a show of continued support, President Torres encouraged Board members to attend and show their support, as members of the judiciary are also invited to the receptions.
- H. She thanked the Communications Division for its hard work and commitment on the redesign of the *Bar Journal*.

3. Executive Director's Report

Executive Director Cheryl Bruce reported the following:

- A. Ms. Bruce congratulated President Torres for her success in bringing recognition to the State Bar of New Mexico through the Dialogue on Freedom Program, and thanked her for her commitment to members of the Bar shown through her many outreach efforts.
- B. She announced a new internal staff newsletter, *Bits and Pieces, News and Kudos*, designed to facilitate internal communication among the six divisions of the association. She also commended staff who have taken the initiative to begin developing an Intranet, which will be a user-friendly means of disseminating staff/employee information such as the *Employee Handbook*, policies and procedures. The Intranet will also contain online forms that will decrease the time and paperwork currently needed to process internal transactions.
- C. She acknowledged the Pro Bono and Referral Division for their team efforts to submit three grant proposals to the Civil Legal Services Commission. If funding is granted, the division will be able to enhance and expand its current programs. She thanked Joyce Stowers, Richard Spinello, Chris Joseph, Cathy Bargas, and Gayolyn Andrusko for their diligent work in preparing the grant proposals for LREP and Lawyers Care in order to meet the deadline.
- D. She announced that Tonya Noonan Herring, the attorney manager for the Consumer Attorney Assistance Program (CAAP), has resigned due to her husband's Fulbright Scholarship, and the family's move to Chile for one year. She commended Ms. Herring, the first manager of CAAP, for her contributions to the success of the program.
- E. She reiterated President Torres' congratulations to the Communications Division on its creative efforts to redesign the *Bar Journal*.
- F. She thanked Joyce Stowers and Sandy McKay for their assistance in coordinating the Dialogue on Freedom Programs in Albuquerque high schools on May 1st and 2nd. Ms. Stowers helped solicit volunteer lawyers and judges and disseminated background and training materials to the volunteers, and Ms. McKay assisted with press releases. Ms. Bruce also acknowledged the Albuquerque Bar Association for its assistance in contacting and obtaining commitments from schools.
- G. MCLE will soon be launching a new Web site that will allow members to access their MCLE records to keep better track of their personal MCLE compliance status.
- H. The State Bar Web site redesign project planning meetings are underway. Christine Halter and Veronica Cordova have begun working with Oso Grande Technologies, Inc., to analyze the current Web site and establish criteria for the new site from which final specifications and specific software needs will be determined.
- I. Planning has begun for the 2002 Lawyers' Leadership Training Institute to be held the months of August through November. The 2001 program was very successful and has become a model program for other bars around the country. She announced that Rick Kraft would chair the planning

committee again in 2002. The registration brochure will be published the end of May. Ms. Bruce further pointed out that President Torres would be speaking about the program at the National Conference of Bar Presidents in Washington, D.C., in August.

- J. CLE Director Steve Meilleur has accepted a position with the City of Rio Rancho as the Director of Development and Human Resources. A search will be conducted to replace the CLE division director, and during the interim, Assistant Director Rhonda Dahl is handling day-to-day operations.
- K. She thanked Maggie Gombos and her staff for developing new marketing materials for membership programs and announced that the State Bar has a new, committed Membership Services Committee.
- L. On behalf of the State Bar, nominations were submitted for Chief Judge James Parker and Stuart Shanor for the 2002 Inns of Court Professionalism Award.

4. Executive Session

The Board went into an Executive Session. Following the session, the Board returned to its regular business meeting and reported action taken during the Executive Session as follows: the Board authorized the Executive Director and the Executive Committee to work with counsel on a litigation matter.

5. Report from Finance Committee

Secretary-Treasurer Vigil reported on the following discussion and action taken at the Finance Committee meeting held prior to the Board meeting:

- A. Sandia High School, the winner of the state mock trial competition, had requested funding from the Bar to assist with travel expenses to attend the national competition in Minnesota. Commissioner Briones made a motion to contribute \$1,000 to the Sandia High School Mock Trial Team. Commissioner Hoffman seconded, and the motion passed.
- B. On behalf of the Center for Civic Values, Tom Keleher appeared before the Board to request funding from the State Bar for the 2003 State Mock Trial Program. He reminded the Board that the State Bar had supported Mock Trial in previous years, but had not designated monies since the year Albuquerque hosted the national competition. Mr. Keleher noted that IOLTA funds had not earned enough interest recently to provide sufficient funds to adequately support the program. He reported that the Center for Civic Values needs approximately \$35,000, but is specifically requesting \$10,000-\$15,000 from the State Bar in 2003. Commissioner Dawdy made a motion for the Finance Committee to make efforts to include \$10,000 to support the Mock Trial Program in the 2003 budget. Commissioner Briones seconded the motion, and the motion passed. Commissioner Dawdy suggested that the Bar also publish a notice in the *Bar Bulletin* asking for contributions for private attorney support of the New Mexico Mock Trial program. President Torres reminded the Board that the budgeting process will begin in July, and the Board will vote on the budget at its October meeting.
- C. The Finance Committee approved five fee waiver requests from members who were either over age 70 or had endured hardships due to disabilities.

Commissioner Wolf moved to accept the Finance Committee report. Commissioner Hoffman seconded, and the motion passed.

6. Acceptance of Financials

Commissioner O'Brien moved to accept the February 2002 financials. Commissioner Whitefield seconded, and the motion passed. It was noted that interest on the cash reserves investment account at Wells Fargo Bank has been earning less than one percent. Staff will research options for better alternatives for the Finance Committee to consider at its next meeting.

7. Acceptance of 2001 Audit and Management Letter

Brandon Haines and Terisa Blunt of Meyners + Company reported on the 2001 Audits and Management Letter for the State Bar and Special Projects, Inc. The Auditors issued a clean report, indicating that all State Bar

financial statements were in accordance with generally accepted accounting principles. Ms. Blunt stated that there were no reportable conditions in the management letter, although some minor recommendations were made. Commissioner Kraft moved to accept the 2001 State Bar Audit and Management Letter. Commissioner Whitefield seconded, and the motion passed. The acceptance of the 2001 Special Projects, Inc., Audit will be recorded in the Special Projects, Inc., minutes.

8. Approval of Annual Awards

Commissioner Whitefield, chair of the Annual Awards Committee, reported on the recommendations of the Awards Committee for the 2002 award recipients. Cheryl Bruce noted that in addition to the nominees considered by the Awards Committee, an additional nomination was submitted after the deadline and the meeting of the committee. Ms. Bruce summarized the additional nomination received by Court of Appeals Judge Jim Wechsler on behalf of Judge Lynn Pickard to receive an Outstanding Judicial Service Award for her contributions to the preparation of the annual budget for the judiciary. Commissioner Vigil made a motion to accept the additional nomination. Commissioner Wolf seconded, and the motion passed. The Awards Committee also requested the Board’s consideration of making an exception to the award criteria for the Professionalism Award, which limits presentation of one Professionalism Award to a living member of the Bar and one posthumous award. The committee requested approval of the exception and submitted the name of Betty Read to the list of nominees for the Professionalism Award. The Board discussed whether or not the criteria should be amended or whether the Board should decide exceptions on a case-by-case basis every year. The Board decided on the latter, and Commissioner Castille made a motion to accept all recommendations by the Annual Awards Committee. Commissioner Hernandez seconded, and the motion passed. The award recipients for 2002 are as follows:

Courageous Advocacy Award

Carmen E. Garza

Distinguished Bar Service Award

Jan B. Gilman-Tepper
James R. Crouch
UNM Dean Robert J. Desiderio

Distinguished Bar Service – Non-Lawyer Award

Louise Kodituwakku
Carol Herrera

Seth D. Montgomery Distinguished Judicial Service Award

Justice Joseph F. Baca

Outstanding Contribution Award

- | | |
|---|---|
| <ul style="list-style-type: none"> 1. Peter H. Pierotti 2. Gary O’Dowd 3. Geno Zamora 4. Barbara L. Shapiro 5. Elizabeth S. Vencill 6. Sarah M. Singleton 7. Alan M. Varela 8. Roger Eaton 9. Robert E. Sabin 10. Jeffrey L. Lowry 11. Mitchel L. Winick 12. KOB-TV Lawline 4 Volunteers
Michael F. Hacker
Daniel J. Behles
John J. D’Amato, Jr.
Bradford H. Zeikus
Timothy M. Padilla
Douglas A. Azar
Barbara C. Everage | <ul style="list-style-type: none"> 13. 2001 Lawyers’ Leadership Training
Institute Planning Commission
Richard L. Kraft
Justice Pamela B. Minzner
Henry A. Alaniz
Alan C. Torgerson
Arturo L. Jaramillo
Trent A. Howell
Rondolyn R. O’Brien 14. “Modrall Sperling Pro Bono Team”
Timothy R. Van Valen
Daniel W. Long
Angelo J. Artuso |
|---|---|

Outstanding Contribution – Non-Lawyer Award	Christiane Wilson
Outstanding Contribution to People with Disabilities Award	Peter M. Cubra
Outstanding Judicial Service Award	Judge Geraldine E. Rivera Judge Lynn Pickard
Outstanding Local Bar Award	Colfax-Union County Bar Curry-Roosevelt County Bar
Outstanding Program Award	Consumer Attorney Assistance Program (CAAP) and Tonya Noonan Herring, Managing Attorney Cross Cultural Exchange Program
Outstanding Young Lawyer of the Year Award	H. Nicole Schamban
Pioneer Award	Stephen E. Doerr
Professionalism Award	Paul A. Kastler Judge Neil P. Mertz (posthumously) Betty Read
Quality of Life – Lawyer Award	Philip B. Davis
Robert H. LaFollette Pro Bono Award	Nicholas T. Leger

9. Approval of Amendment to Bylaws RE: Executive Committee Membership

At the February 8, 2002, meeting, the Board considered an amendment to the Bylaws to add the immediate past president to the membership of the Executive Committee. With the 30-day notice requirement having been met, Commissioner Wolf made a motion to approve the amendment to State Bar Bylaws, Article VI, Section 6.1, regarding the Executive Committee as follows: “The Executive Committee shall consist of the President, the President-Elect, the Vice President, the Secretary-Treasurer, the immediate Past President, and two or more members of the Board to be appointed by the President for one-year terms each.” Commissioner Dugan seconded, and the motion passed.

10. Appointment to Judicial Standards Commission

President Torres reported on the attorneys who had submitted their names for consideration for an appointment to the Judicial Standards Commission: Mark Filosa, Nicholas R. Gentry, Christopher Harrington, Norman Thayer and Jim Yontz. She then asked for a secret ballot vote, and Mark Filosa was elected by secret ballot vote to serve on the Judicial Standards Commission for a four-year term.

11. Approval of Action Plan to Defeat New Liability Standards Against Bankruptcy Lawyers

Commissioner Dawdy made a motion to table this agenda item until the Bankruptcy Law Section submitted a formal recommendation. Commissioner Shuler seconded, and the motion passed.

12. Approval of Client Protection Claim

Cheryl Bruce requested the Board's approval to pay \$2,500 to Edward Legarda from the Client Protection Fund. Commissioner Hoffman moved to accept staff's recommendation to pay claimant Edward Legarda \$2,500 from the Client Protection Fund. Commissioner Schutte seconded, and the motion passed.

13. Discussion on Status of MJP Recommendations

President Torres reported that the New Mexico Supreme Court asked several rules' committees and other Supreme Court Boards, including the Board of Bar Examiners, to comment on the State Bar's recommendations resulting from the work of its Task Force on Multijurisdictional Practice (MJP). Task Force Co-chairs Wolf and Shuler reminded the Board that the Task Force's membership survey elicited a significant response, and the majority of members were in favor of reciprocity. Utah, Colorado and Texas would also like reciprocity with New Mexico. Commissioner Wolf stated that other states give leeway to transactional lawyers. Noting that the proposed rules and rule amendments, as published by the Supreme Court for "comment" by the membership, were substantially different than those proposed by the Board of Bar Commissioners, President Torres asked the Board's permission for her and the Executive Director to visit informally with the Chief Justice during a scheduled luncheon within the next week about the possibilities of further amendments, which would be more in line with the Bar's recommendations. She further noted that other states are collecting fees for pro hac vice, and that if the Court would consider allowing the State Bar to collect those fees, it may substantially improve the State Bar's financial stability in the 2003 Bar year. The Board agreed that it would be appropriate for President Torres and Cheryl Bruce to visit informally with the Chief Justice about these issues. President Torres also noted that she would ask the Chief Justice if the Court would be willing to share a copy of the letter from the Board of Bar Examiners commenting on the proposed MJP recommendations submitted by the State Bar.

14. Report on Web Site Redesign

President Torres reported that attorneys from the Modrall Sperling Law Firm had provided pro bono assistance to the Web Redesign Project Advisory Committee by reviewing the Letter of Understanding between the State Bar and Oso Grande. This assistance was necessary due to several unexpected issues regarding intellectual property rights that arose during negotiations. President Torres informed the Board that the issues had been addressed, the Letter of Understanding had been signed, and the project planning had started. The unveiling of the redesign is scheduled for the Saturday luncheon during the Annual Convention.

15. Report on Commission on Professionalism

Executive Director Cheryl Bruce reported on the following:

- A.** Few other CLE providers have offered a course on professionalism in 2002. The Commission's program, "Interpreting the Creed through Different Communication Styles," was presented live on April 3rd and was sold out, with the Commission offering the opportunity for additional attendees to participate in the program by opening a "run off" classroom with a live audio and video feed. The Commission will also be offering self-study and video replays of the program throughout the year.
- B.** The professionalism program will also be presented to and cosponsored by local and voluntary bars, and the program will also be presented at the Bench and Bar Conference, the Bridge the Gap CLE program, and at the Annual Convention. Commissioners were encouraged to contact their local bars to cosponsor the program.

16. Report on Annual Convention

Annual Convention Chair Mary Torres reported on the rearrangement of social events, noting that the convention would conclude with the Past Presidents' Dinner on Saturday evening. Previously, the invitation only event had been held on the first night of convention. She encouraged Board members to plan to stay for the entire convention, and requested that each member contact at least ten other members of the Bar to extend a personal invitation to attend.

Christine Halter reported on the site visit that she and Ms. Bruce conducted. Although the program preview and registration will be published near the end of May, a large portion of the room block at the headquarters hotel has already been booked.

17. Report on ANLIR

Cheryl Bruce reported the following:

- A. The State Bar endorsed malpractice insurance provider's AM Best rating was reduced from an A to a B due to the number of malpractice claims filed in 2001 against the medical profession (ANLIR also carries malpractice insurance for doctors and hospitals). To provide historical information regarding the company, Ms. Bruce further explained that while the lawyers' side of the insurance program is managed and governed by lawyers, ANLIR was originally created by the medical profession, and a large number of claims against medical professionals caused the drop in the rating. ANLIR has pledged to build the surplus on the medical side to \$72 million, and AM Best has promised to increase the rating in 60 days following a review of the financial stability of the medical book of business from B to B+.
- B. Ms. Bruce and Bob Sabin, chair of the State Bar's Professional Liability Insurance Committee, attended the first quarter meeting of the ANLIR Board of Directors in mid-April in West Virginia.
- C. Jim Crouch, the State Bar member of the ANLIR Board, resigned due to his wife's health, and Steve Doerr was appointed to replace Jim Crouch on the ANLIR Board. Mr. Doerr will go through orientation provided by Mr. Crouch, Mr. Sabin, Ms. Bruce and ANLIR's President and CEO, Judy Kelley, prior to his first ANLIR Board meeting in August 2002.
- D. The State Bar's Professional Liability Committee will continue to monitor the stability of the company as well as the AM Best rating. Mr. Doerr, Mr. Sabin and Ms. Bruce will provide regular updates to the Board of Bar Commissioners.

18. Reports from Divisions

A. Young Lawyers Division

YLD Chair Trent Howell reported on activities of the division as follows: YLD is interested in creating a "Junior Judges Program" in New Mexico, which is presently being conducted in Laredo, Texas; the Arizona YLD and the New Mexico YLD are coordinating a joint reception to be held during the Annual Convention in Sedona; the May 4th Law Day Call-in Program locations include Las Cruces, Alamogordo, and Roswell; and the division's Communications Subcommittee is drafting an article for the next *Bar Journal*. Mr. Howell concluded his report by announcing that the ABA regional YLD spring conference will be held in Denver.

B. Senior Lawyers Division

SLD Delegate Dan Behles reported that the division will be presenting a retirement planning program at Annual Convention. LawLine 4 continues to be a success, and volunteers respond to an average of 200 calls each month. After reviewing a publication entitled "How to Close Down a Law Practice," the division established a committee to adapt the publication for New Mexico and to produce copies for retirees and/or their spouses.

C. Legal Assistants Division

LAD Chair Sandra Byer announced the success of the annual two-day CLE session in March. She also reported that the division is exploring fundraising activities for scholarships. LAD membership currently has 148 active, 16 inactive and 6 new members. There were 20 disenrollments due to non-compliance of CLE credits and non-renewal of membership.

19. Report and Update on Status of Legal Access New Mexico and Merger of Legal Services Providers

Sarah Singleton, Co-chair of the State Bar Legal Services and Programs Committee, explained that the newly formed Law Access-New Mexico would take a systemic view of delivering legal services to the poor. She further explained the merger, directed by the Legal Services Corporation, of the four New Mexico legal services

providers. The agencies included in the merger are: the Center on Law and Poverty (non-federally funded), Southern New Mexico Legal Services, Legal Aid Society of Albuquerque, and Community and Indian Legal Services. Under the new organization, a single easy-to-use intake system will be implemented to screen and route callers to the appropriate provider.

20. New Business

A. Funding for Dialogue on Freedom

Pursuant to a request presented by President Torres for approval of non-budgeted funds to support the Dialogue on Freedom Program through the end of 2002, the Finance Committee approved setting aside non-budgeted funds (amount to be determined, but not more than \$10,000) for the Dialogue on Freedom Program. This item was inadvertently omitted from the Finance Committee's report earlier in the meeting. Following a series of questions regarding the plans for the program and the anticipated expenses, Commissioner Whitefield made a motion to approve the recommendation of the Finance Committee. Commissioner Dugan seconded. Commissioner Wolf requested an amendment to the motion to approve up to \$5,000. Cheryl Bruce reminded the Board that funds may be obtained from other local and voluntary bars that cosponsor the program with the State Bar. Commissioner Whitefield and Commissioner Dugan accepted the amendment to the motion, and the motion to approve up to \$5,000 for the program through the end of 2002 passed.

B. Swearing-in of New Commissioners

Special Guest Chief Justice Patricio Serna swore-in the new commissioners: Robert D. Castille; James J. Dawdy, Jr.; Jane Shuler Gray; Donald C. Schutte; Trent Howell, YLD Chair; and Sandra B. Byer, LAD Chair.

There being no additional new business, the meeting was adjourned.

**Minutes
Special Meeting
of the
Board of Bar Commissioners
Teleconference, July 8, 4:00 p.m.**

MEMBERS PRESENT: Colin C. Alcott
Sandra B. Byer
Robert D. Castille
James H. Dawdy, Jr.
Virginia R. Dugan
Jane Shuler Gray
David N. Hernandez
A. Drew Hoffman
Trent A. Howell
Dennis E. Jontz

Russell D. Mann
Daniel J. O'Brien
Moncia M. Ontiveros
Donald C. Schutte
John S. Stiff
Mary T. Torres
Charles J. Vigil
Elizabeth E. Whitefield
Carolyn A. Wolf

MEMBERS ABSENT: Daniel J. Behles
B. Paul Briones
Richard L. Kraft

OTHERS PRESENT: Cheryl Bruce
Steve Doerr
Jeff Lowry
Sarah Singleton

President Torres called meeting to order. Discussion ensued regarding a point of order regarding the notice provided by the President in calling the special meeting. It was noted that notice had been provided pursuant to the State Bar Bylaws, Article IV, Section 4.5, Subsection (b), and that no member of the Board was unable to participate in the meeting due to the notice. A motion to postpone the meeting died for lack of a second.

President Torres explained that two past presidents of the State Bar, Sarah Singleton and Steve Doerr, had been invited to discuss issues of concern to the Board that would be discussed in an executive session. Mr. Doerr and Ms. Singleton shared their thoughts relating to matters that could potentially impact the State Bar, its budget, and operations.

Commissioner Dugan then moved to go into Executive Session. Commissioner Whitefield seconded, and the motion passed. President Torres then excused Mr. Doerr and Ms. Singleton, and the Board went into an Executive Session.

Following Executive Session, the Board returned to open session and reported action taken during the Executive Session as follows: The Board authorized the State Bar's counsel to file an appeal with the National Labor Relations Board for a request to review the regional director's decision regarding jurisdiction in State Bar of New Mexico and Communications Workers of America, Local 7011, AFL-CIO, Case No. 28-RC-6077. The Board further

authorized the expenditure of up to \$3,000 to contract with a local consultant to provide education to employees of the State Bar of New Mexico prior to an election in the above referenced matter.

There being no further business, the special meeting of the Board adjourned.

**BOARD OF BAR COMMISSIONERS
JULY 25, 2002, MEETING MINUTES
Hilton Sedona Resort
Sedona, Arizona**

MEMBERS PRESENT:	Colin C. Alcott B. Paul Briones Robert D. Castille James H. Dawdy, Jr. Virginia R. Dugan Jane Shuler Gray David N. Hernandez	Trent A. Howell Dennis E. Jontz Monica M. Ontiveros Donald C. Schutte Mary T. Torres Charles J. Vigil Elizabeth E. Whitefield
MEMBERS ABSENT:	Daniel J. Behles Sandra B. Byer A. Drew Hoffman Richard L. Kraft	Russell D. Mann Daniel J. O'Brien John S. Stiff Carolyn A. Wolf
OTHERS PRESENT:	Jeff Albright Kris Becker Cheryl Bruce Shannon Donahue Maggie Gombos Christine Halter Sandy McKay	Madonna Rutherford Chief Justice Patricio M. Serna Linda Stocky Joyce Stowers Christiane Wilson Geno Zamora

1. Approval of Meeting Minutes

- A.** Commissioner Dugan made a motion to approve the April 26, 2002, meeting minutes. Commissioner Gray seconded, and the motion passed. Commissioner Dawdy stated his opposition, noting that action taken in Executive Session should have been taken in open session.
- B.** Cheryl Bruce amended the July 8, 2002, meeting minutes by stating that Commissioner Byer was also in attendance and was on the phone in Commissioner O'Brien's office. Commissioner Ontiveros made a motion to approve the minutes. Commissioner Whitefield seconded, and the motion passed. Commissioner Dawdy opposed the motion for the same reason as the April minutes. He questioned the legality of the action taken in the session and said that litigation should have been discussed with Steve Doerr and Sarah Singleton present.

2. A. President's Report

President Torres reported the following:

- A.** She thanked the staff for their efforts in coordinating Annual Convention and commended Ms. Bruce for her exhaustive efforts in dealing with the personnel issues over the last three to four months.
- B.** Her most recent and upcoming speaking engagements included the Socorro High School graduation, the Women's Bar Association in Las Cruces, Dona Ana County Bar, Curry-Roosevelt County Bar, San Juan County Bar, Quay County Bar, Chaves County Bar, Taos County Bar, and the Chief Judges Council Meeting. She visited the Texas and Utah Bar Association's conventions earlier in the summer and noted that the Bar Presidents from Arizona, Colorado, Oklahoma, Texas and Utah were visiting our convention and encouraged commissioners to make them feel welcome.
- C.** She and Cheryl Bruce met with Chief Justice Serna and, per the Board's request at the April meeting, they discussed MJP issues and the Court's recent rule changes. The Chief recommended that reciprocity be revisited after the first of the year.

- D. The Judicial Nominating Commission met to discuss filling Justice Baca's vacancy. She informed the Board that the media has claimed that the State Bar controls judicial appointments, appointing only Democrats. She referred the media to UNM Dean Desiderio to address the Constitutional Amendment which created the judicial nominating procedures and which outlines criteria for appointments to the nominating commissions.
- E. During convention, a hospitality suite, sponsored by the Modrall Sperling Firm, would be open to commissioners and staff. Additionally, all Board members and staff were invited to a dessert reception, also sponsored by the firm, following the Past Presidents' Dinner on Saturday night.
- F. She will attend the National Conference of Bar Presidents (NCBP) to be held in Washington, D.C. on August 9th and 10th. As a member of the Program Planning Committee, she will be involved in two programs. She will serve as a moderator for "After the Limelight: Transition and Opportunities," a program for past presidents of bar associations. She will serve on a panel in a program entitled, "Succession Planning: Invest in Your Future," which will focus on the State Bar's model Lawyers' Leadership Training Institute. In addition to the aforementioned involvement in the national organization, President Torres was appointed to the ABA Bar Services Committee, and she is under consideration for an appointment to the Executive Committee for NCBP.
- G. Chief Justice Serna, Ms. Bruce and she attended the national competition of "We the People" in D.C. over the Cinco de Mayo weekend, as the guests of the Center for Civic Education. They were extremely impressed with the program in which high school students discussed the core values of the Constitution.
- H. She and Ms. Bruce met with Center for Civic Education Executive Director Bob Lemming and New Mexico State Coordinator Dora Marroquin on July 12th. Mr. Lemming expressed his hope that New Mexico will become a leader of law-related educational programs.

2. B. President-elect's Report

President-elect Colin Alcott reported that he recently spoke at the Guadalupe County Bar Association and, on May 1st, presented the award for the public employee of the year to hearing officer Jerry Richardson. He also commented that he would be the first public attorney to hold the office of president.

3. Executive Director's Report

Executive Director Cheryl Bruce reported the following:

- A. Ms. Bruce gave kudos to staff for coordinating the Annual Convention and reported that final registration was approximately 300 attorneys. In addition, the MCLE Board is holding its first meeting at convention, a practice that she encourages to continue.
- B. She clarified that reimbursement for commissioners to attend the Annual Convention Board meeting would be two days @ \$85/day plus mileage, per the 2002 budget.
- C. The *Bench & Bar Directory* has gone to press and members should have copies in two to three weeks, longer for those living in outlying areas. She thanked the Communications staff for their efforts and noted the new layout that includes yellow pages promoting State Bar programs and membership services.
- D. Staff have been busy not only working on the *Directory* and Annual Convention, but also with the *Bar Journal*, public programs, the union matter, Web redesign, budget preparation, Leadership Training Institute, and the many live and video replay programs for the 2002 professionalism course.
- E. She reiterated President Torres' congratulations to the Communications Division on its creative efforts to redesign the *Bar Journal*.
- F. Gaelle McConnell has assumed the position of CAAP managing attorney. Ms. McConnell is a former attorney with Jim Beckley's firm and has served on the LREP Advisory Committee and Pro Bono Subcommittee of the Legal Services and Programs Committee.
- G. The search for a new Director of CLE has been postponed due to preparation for Annual Convention. Semi-finalists have been chosen, however, and a screening committee has been formed to determine finalists to be interviewed.

- H. A burglary occurred at the Bar Center on Sunday morning, July 14th, and two Macintosh CPUs were stolen. The alarm sounded, however, police did not arrive in time to catch the burglars. The State Bar insurance policy includes a \$500 deductible with full replacement value.
- I. She met with Joe Leavengood, a member of Idaho, Colorado and New Mexico Bar Associations, to discuss the "Dialogue on Freedom" program and other programs sponsored by the New Mexico Bar. He informed her that, out of the three states, New Mexico is the most inclusive, has the most member involvement and is the best of all of the Bars of which he is a member. He also took a packet of information on the "Dialogue on Freedom" program with the intention of beginning a program in Idaho.
- J. Her schedule for the next three weeks includes a trip to Georgia to participate in an ANLIR board meeting and a trip to D.C. to attend the National Association of Bar Executives (NABE) and National Conference of Bar Presidents (NCBP) annual meetings.
- K. She, President Torres and Chief Justice Serna attended the national competition of "We the People" in D.C. in May, and she joined the national "We the People" director in Las Vegas, Nevada, to observe a "We the People" competition for fifth-grade children. They were impressed with the competitors' ability to analyze the Constitution and tie its principles to everyday living.

4. Executive Session

The Board went into an Executive Session. Following the session, the Board returned to its regular business meeting and reported action taken during the Executive Session as follows: The Board will solicit proposals from firms/attorneys interested in handling an appeal regarding jurisdiction through an RFP (request for proposals) to be published in the *Bar Bulletin*. In addition, in an effort to inform the membership of the union matter and the Board's actions regarding the NLRB's jurisdiction over the State Bar in this matter, and to solicit input from the members regarding a possible appeal, President Torres was directed to write a letter to the membership to be published in the August 1, 2002 issue of the Bar Bulletin. The Board further authorized the Executive Committee to work with President Torres to review and approve the content of the letter.

5. Report from Finance Committee

Secretary-Treasurer Vigil reported on the following discussion and action taken at the Finance Committee meeting held prior to the Board meeting:

- A. Aging accounts receivables total \$33,000.
- B. A committee has been formed to study better investment alternatives.
- C. The State Bar Lawyers Care Program was awarded a grant from the Civil Legal Services Commission; however, if accepted, the Commission requires that the State Bar agree to continue funding Lawyers Care at the rate of \$58,700 per year for the next two years. Commissioner Whitefield made a motion to accept the grant. Commissioner Vigil seconded. Ms. Bruce explained that \$13,500 of the grant would be spent for clerical help at public workshops, and \$17,500 would be spent on a part-time employee dedicated to law-related educational programs. Commissioner Castille amended the motion by stating that the Board should wait and accept the grant after the first draft of the 2003 budget has been completed. Discussion followed concerning the increased funding the State Bar has contributed to Lawyers Care over the years. Ms. Bruce reminded the Board that the program, as it was restructured, was never intended to be self-supporting. She noted that one of the Bar's responsibilities to the public is to provide a referral service. Commissioner Dawdy stated that the Board cannot afford to accept the grant with strings attached with an already tight budget. The motion to accept the grant failed. The Board directed President Torres to send a letter to the Civil Legal Services Commission explaining the Bar's position.

Commissioner Dugan moved to accept the Finance Committee report. Commissioner Whitefield seconded, and the motion passed.

6. Acceptance of Financials

Commissioner Hernandez moved to accept the May 2002 financials. Commissioner Dugan seconded, and the motion passed.

7. Acceptance of 2003 Budget Review, Audit and Approval Schedule

Commissioner Hernandez made a motion to accept the budget timeline. Commissioner Dugan seconded, and the motion passed.

8. Nomination of 2003 Officers

- A. Virginia Dugan was elected by acclamation to the office of secretary-treasurer.
- B. Chuck Vigil was elected vice president by acclamation.
- C. Dan O'Brien was elected president-elect by acclamation.

9. Approval of Membership Services Committee's Recommendations

Alan Malott, chair of the Membership Services Committee, was not in attendance; therefore, the item was tabled.

10. Approval of Action Plan to Defeat New Liability Standards Against Bankruptcy Lawyers

This item was tabled due to lack of time before the opening plenary session at Annual Convention.

11. Approval of Committee on Women in the Legal Profession's Request to Lobby the New Mexico Legislature for Amendments to Statute 12-2A-5 Regarding Gender Neutral Language

Committee Co-chairs Jeff Albright and Shannon Donahue presented the proposed amendments to Statute 12-2A-5 with regard to gender equality and requested the Board's approval to lobby the legislature. They stated that New Hampshire and Maine have enacted statutes with gender equality. They also noted that no funds would be needed, so therefore no *Keller* issues would arise. Additionally, the committee's intentions would be published in the *Bar Bulletin*. Commissioner Whitefield moved to authorize the lobbying effort contingent upon appropriate notice given to members including disclosure of the lack of budgetary obligation on behalf of the Bar. Commissioner Castille seconded, and the motion passed.

12. Approval of Client Protection Fund Claim and Other Client Protection Fund Recommendations

- A. Commissioner Briones moved to approve payment in the amount of \$2,500 to Claimant David C. DeAtley. Commissioner Ontiveros seconded, and the motion passed.
- B. Due to funding constraints in the Client Protection Reserve Account, Commissioner Briones moved to hold all pending and future claims received prior to the December 6th Board meeting for consideration at that meeting. Commissioner Alcott seconded, and the motion passed.

13. Report on 2003 Board of Bar Commissioners Election Schedule

Ms. Bruce reported on the 2003 Board of Bar Commissioners Election Schedule and advised commissioners whose terms were expiring to submit nominations in a timely manner if they planned to run again.

14. Report on Web Site Redesign

Geno Zamora, a member of the Web Site Advisory and Strategic Planning Committees, reported that the State Bar will be making spectacular progress in improving the functionality of the Web site through partnerships with two Web development companies – Oso Grande Technologies, Inc. and Active Matter, Inc. The project has come in under budget and is far superior than expected. Oso Grande, Inc. began the project with the redesign of graphics and navigation and, as approved by the Web Advisory Committee, has passed the project on to Active Matter, Inc., a Web design and software company and reseller of iMIS, to install and train staff on using software such as e-commerce and content management applications that will integrate with the membership database and update information immediately.

15. Report on Commission on Professionalism

This item was tabled due to lack of time prior to the opening plenary session at Annual Convention.

16. Report on Annual Convention

Annual Convention Chair Mary Torres made a brief announcement regarding the afternoon plenary session and evening social events.

17. Reports from Divisions

- A. Young Lawyers Division**
- B. Senior Lawyers Division**
- C. Legal Assistants Division**

All division reports were tabled due to the lack of time prior to the opening plenary session at Annual Convention.

18. Report on “We the People” Law-Related Education Program

Cheryl Bruce passed around textbooks and other background information on the We the People program. A video explaining the program, provided by the Center for Civic Education, was then shown to the Board. Chief Justice Serna spoke to the Board and expressed his enthusiasm and support of the program, noting the impressive comprehension and appreciation that the students showed for the Constitution and Bill of Rights. The Chief Justice further vowed to make this HIS PROGRAM in New Mexico before stepping to attend the Chief Judges Council meeting in September, where he will announce his support and endorsement of this program to the chief judges. Ms. Bruce informed the Board that the Finance Committee recommended inclusion of funds in the budget for the following four law-related programs: “Dialogue on Freedom,” “Lawyers with Class,” “We the People,” and “Mock Trial.” Commissioner Alcott made a motion to include all four programs in the 2003 budget. Commissioner Whitefield seconded, and the motion passed. Chief Justice Serna recommended that a hands-on approach be implemented by making a presentation at the annual meeting of the School Board Association. Commissioner Castille inquired about local bar involvement, and Ms. Bruce requested his and the other board members’ assistance in promoting the program in their local areas, and specifically in enlisting the support and participation by local schools. Commissioner Castille informed the Board that he resides on the Council for the New Mexico School Board, and the agenda for their annual convention (to be held in December) was being drafted at this time and that he would contact the School Board president after the convention.

Chief Justice Serna concluded by saying that Justice Franchini was known as the “Father of Mock Trial” and he wants to be known as the “Father of We the People.”

19. New Business

There being no new business, the meeting was adjourned.

**BOARD OF BAR COMMISSIONERS
SEPTEMBER 13, 2002, MEETING MINUTES
Bar Center
Albuquerque, New Mexico**

MEMBERS PRESENT:	Colin C. Alcott Daniel J. Behles B. Paul Briones Sandra B. Byer Robert D. Castille James H. Dawdy, Jr. Jane Shuler Gray David N. Hernandez A. Drew Hoffman Trent A. Howell Dennis E. Jontz	Richard L. Kraft Russell D. Mann (by phone) Daniel J. O'Brien Monica M. Ontiveros Donald C. Schutte John S. Stiff Mary T. Torres Charles J. Vigil Elizabeth E. Whitefield Carolyn A. Wolf
MEMBERS ABSENT:	Virginia R. Dugan	
OTHERS PRESENT:	Kris Becker Cheryl Bruce Jack Clough Maggie Gombos Christine Halter	Sandy McKay Madonna Rutherford Joyce Stowers Tom Walker

1. Approval of July 25, 2002 Meeting Minutes

Commissioner O'Brien made a motion to approve the July 25, 2002 meeting minutes. Commissioner Vigil seconded, and the motion passed. Commissioner Whitefield stated that the previous minutes did not include the approval of spending \$3,000 to hire John Martinez to educate staff regarding the pros and cons of union organization. The motion and action taken were recorded in the July 8th Executive Committee minutes. Commissioner Whitefield inquired as to whether or not that action had been published in the *Bar Bulletin*, and Executive Director Cheryl Bruce informed the Board that the information had been posted on the Web site.

2. President's Report

President Torres reported the following:

- A. Her most recent speaking engagements included: a talk on leadership to Las Mujeres Magnificas on August 23rd; the Dona Ana County and Women's Bar luncheons; she presented the professionalism program at the Sandoval County Bar on August 30th and will be presenting the program at the Taos County Bar with President-elect Alcott on October 2nd.
- B. Paula Mertz sent a thank you letter to the State Bar for the Professionalism Award that was bestowed upon her late husband, Judge Neil P. Mertz, at the Annual Convention.
- C. Presidents from the Texas, Arizona, Colorado, Oklahoma and Utah Bar associations sent thank you letters to the State Bar for the hospitality shown at Annual Convention.
- D. She was nominated for the New Mexico Ethics in Business Award, cosponsored by the *Albuquerque Journal*. The winner of the award will be announced in March or April of 2003.

- E. She was involved in two programs at the National Conference of Bar Presidents (NCBP) in Washington, D.C. on August 9th. First, in the workshop “Succession Planning – Invest in Your Future,” President Torres spoke about the State Bar of New Mexico’s Leadership Training Institute. Second, she moderated a program entitled, “After the Limelight – Transition and Opportunities,” designed to provide options for bar leaders exiting their positions. Additionally, she was appointed to a three-year term on the NCBP Executive Committee.
- F. While in D.C., she also met Justice Kennedy at a steering committee meeting for the Dialogue on Freedom program and had the opportunity to dine in the “Great Hall” at the U.S. Supreme Court building.

3. President-elect's Report

President-elect Alcott informed the Board that he had been ill during the Annual Convention and had to leave early and that he was not able to attend the NCBP Annual Meeting in Washington, D.C. due to illness, but he was now back in good health.

4. Executive Director’s Report

Executive Director Cheryl Bruce reported the following:

- A. She reminded the Board about the statewide “Dialogue on Freedom” program and thanked Joyce Stowers and staff for obtaining volunteers. She encouraged Commissioners to assist Joyce by providing contacts with local schools.
- B. Ms. Bruce announced that she hired a new Director of CLE. Roy Reynolds, Director of CLE at SMU Law School since 1984, will begin working for the State Bar on September 23rd.
- C. She also received thank you notes from out-of-state presidents who attended convention and Paula Mertz for her late husband’s Professionalism Award.
- D. She attended the National Association of Bar Executives (NABE) and NCBP meetings in Washington, D.C., August 6-10th, and ANLIR Board meeting, August 2-4.
- E. She acknowledged several staff who are attending college: Madonna Rutherford is pursuing a graduate degree; Gwenn Bowling is seeking an undergraduate degree; Richard Spinello is participating in the Bar’s Leadership Training Institute in addition to attending UNM’s Anderson School management program; and Lizeth Perez-Cera is seeking an associate’s degree at TVI.
- F. Bar exam results were released yesterday, and the swearing-in ceremony will be held on September 30th.
- G. Commissioner Kraft, chair of the Leadership Training Institute Planning Commission, will be leaving the meeting early today to lead the second session of the institute.
- H. Bench and Bar Directories were delivered to the Bar one week ago; however, several of the advertisements were of poor quality. Communications Director Sandy McKay met with LithExcel printing company and negotiated an agreement wherein they would reprint the ads at no cost to the Bar.
- I. She and Chris Halter will be assisting with Professionalism Programs around the state. Members of the Sandoval County Bar expressed appreciation for the Bar’s outreach to their local bar. They indicated that they had a greater turnout than usual for their meeting, and they engaged in meaningful dialogue during the interactive portion of the program.

5. Finance Committee Report

Secretary-Treasurer Vigil reported on the following discussion and action taken at the Finance Committee meeting held prior to the Board meeting:

- A. The main order of business for the committee was developing and finalizing the 2003 Budget Disclosure Document.

- B. The Client Protection Fund is running out of money, and the committee recommended that a one-time dues assessment of \$15 be authorized to recharge the fund. Commissioner Behles moved to approve the assessment. Commissioner Briones seconded, and the motion passed. Joyce Stowers commented that, for the most part, there is no restitution from the attorneys.
- C. Funds in the reserve account are earning less than one percent interest; therefore, the committee is researching investments with institutions other than Wells Fargo.
- D. At the last Board meeting, Commissioners rejected the \$13,500 grant to Lawyers Care from the Civil Legal Services Commission due to proposed conditions placed on the Bar. The restrictions have been eliminated, and the committee recommended that the Board accept the funding. Commissioner Wolf moved to accept the grant. Commissioner Ontiveros seconded, and the motion passed.
- E. Bank of America stocks that were not previously sold have now been sold, and the State Bar received \$8,243.75 from the transaction.
- F. Due to the recent break-in and burglary of the Communications Division, the committee recommended that the Board authorize the purchase of glass break and motion detection devices in the atrium, for small windows on the side and front doors, and in the visiting attorneys' offices. The total cost was quoted at \$1,397. Commissioner Wolf made a motion to purchase the glass break devices and motion detectors. Commissioner Whitefield seconded, and the motion passed.
- G. The committee recommended that a line item be added to the dues form for a donation to the Center for Civic Values to help fund the Mock Trial program in addition to budgeting \$5,000 for the program. Tom Keleher had formally requested \$15,000 from the Bar. Commissioner Hoffman suggested that the Board budget \$10,000. Commissioner Whitefield moved that the Board guarantee \$10,000, and if the extra \$5,000 is not raised through donations, it should be taken from cash reserves. Commissioner Wolf seconded, and the motion passed. It was further suggested that requests for donations be advertised in the *Bar Bulletin*.

6. Executive Committee Report

President Torres reported that, following the Executive Committee meeting on August 19th, the decision was made to post on the State Bar Web site all union briefs and the letter from the employees who support the union. Posting the transcripts was discussed, but there was concern over needing approval from the court reporter. Union attorney Stanley Gosch was contacted to obtain the name of the court reporter. Posting e-mails from members commenting on the union matter was discussed; however, permission from each member would need to be obtained.

President Torres further reported that a subcommittee was appointed to review proposals for legal representation and to make a recommendation to the Board. Commissioners Alcott, O'Brien and Dugan volunteered to review the proposals.

Commissioner Stiff moved to ratify the action of the Executive Committee on August 19th. Commissioner Dawdy seconded, and the motion passed.

During the September 4th meeting, it was decided to post supplemental briefs from the California decision on NLRB jurisdiction. The committee also discussed polling the membership regarding whether or not to continue with the appeal to the NLRB, but concerns were raised as to whether or not the Board would be bound by the results. Formation of a task force to study personnel policies, including the grievance policy and procedures, was considered. Following the study, the task force would recommend changes to the Board. Steve Doerr was suggested to chair the committee along with two other Board members who were not part of the Executive Committee and three employees to be chosen among them. Commissioner Dawdy moved to table the discussion until the executive session. Commissioner Ontiveros moved to ratify the action of the Executive Committee. Commissioner Vigil seconded, and the motion passed.

During the September 11th meeting, personnel issues were discussed and no action was taken.

7. Discussion of Issues Relating to NLRB Jurisdiction in Union Matter

Agenda item seven was discussed out of order; and was postponed until 1:30 pm to accommodate interested bar members.

A. Report on Tabulation of and Member Responses to Letter from President in *Bar Bulletin*

Tabulation of member responses to the letter from President Torres in the *Bar Bulletin* was as follows: 214 members voted to appeal, 165 members were opposed to the Bar's appealing any decision of the NLRB, and 6 were neutral.

B. Decision Regarding Poll of Membership Regarding Appeal

President Torres asked the Board whether to poll the membership regarding appealing on jurisdictional grounds. She noted that, unfortunately, members interpreted her letter as the Board taking an anti-union stance. Mr. Nick Noeding reminded the Board that no decision has been made by the NLRB; therefore, deciding whether or not to appeal might be premature. Much discussion followed between members of the Board and the general membership regarding whether to wait for the NLRB's decision or to proceed with polling the members. The low response rate, slow turnaround time for approximately 7,000 responses, and high cost of polling were discussed. Several of the members requested that all of the e-mail responses to President Torres' letter be posted on the Web site; however, permission by members who wrote the letters would be necessary. Other members stated that polling the general membership would set a dangerous precedent. Members of the Board are elected by the members to make decisions with the best interests of the Bar and the members within their districts in mind. If a poll were taken, the Board might not be able to override the outcome. It was further noted that the respondents to a poll would most likely be the same members who responded to the letter from the president; therefore, their comments have already been taken under consideration. Commissioner Vigil moved to defer polling until the NLRB rules on the issue of jurisdiction. Commissioner Whitefield seconded, and discussion followed. Commissioner Vigil amended his motion to state that a poll should not be conducted. Commissioner Whitefield seconded, and the motion passed.

Questions were also raised as to the timeline of events following the NLRB ruling, should they rule in favor of jurisdiction. The Board was informed that the votes would be counted immediately and they would need to decide at that time whether or not to appeal. There would be plenty of time to file a petition with the Tenth Circuit for review.

C. Report on Motion to Supplement Request for Review and Supplemental Brief

This agenda item was included in the general discussion.

D. Recommendation on Firm/Attorney to Handle Appeal

President Torres reported that the Executive Committee had formed a subcommittee to review the proposals for State Bar representation in the union matter. Commissioner O'Brien made a motion to table the discussion on this matter. Commissioner Alcott seconded, and the motion passed.

Commissioner Schutte moved that a task force be created to review the personnel policy handbook and recommend changes, if needed. Commissioner Whitefield seconded, and the motion passed with two objections. President Torres stated that the task force should be composed of two Board members who are not members of the Executive Committee and three employees of their choosing. She recommended Steve Doerr chair the task force due to his institutional knowledge and suggested it include plaintiffs who practice in labor law.

Discussion followed regarding doing this prior to learning the verdict on the union matter since these measures would then be taken by the NLRB. The motion passed with two objections.

Commissioner O'Brien moved to reconsider tabling the RFP recommendation, and Commissioner Alcott agreed. Commissioner Alcott reported that the subcommittee recommended hiring Noeding and Moody as the Bar's pro bono counsel; however, he informed Mr. Noeding that the proposal didn't address talking to the union attorney to negotiate other options. Mr. Noeding agreed to do so. Commissioner Alcott informed the Board that he along with Commissioners Dugan and O'Brien agreed to recommend Noeding. Commissioner Vigil moved to accept the recommendation. Commissioner O'Brien seconded, and the motion passed.

E. Forum for Membership Comments to Board

Members and employees provided viewpoints on issues related to NLRB jurisdiction and the union matter. In attendance were: (members) Barbara Johnson, Mark Filosa, Clark Varnell, Danny Jarrett, Margaret Barker, Barbara Blumenfeld, Burton Broxterman, Sean McAfee, Samatha Hults, Raymond Hamilton, Vic Sizemore, Alan Torgerson, Arturo Jaramillo, Angela Cornell, Lee Peifer, Brad Zeikus, Elicia Montoya, Allegra Carpenter, Charlie Daniels, Mark Jarmie, Nick Noeding, Frederick ("Rick") Sherman, Randy Burroughs, Paul Kastler, Jane Yee; (employees) Peggy Shannon, Veronica Cordova, Diana Sandoval, Rosario Campos, Becky Jiron, Cathy Bargas, Gayolyn Johnson, Chris Joseph, Loretta Hayoz, Jack Lovell, Gwenn Bolling, Lizeth Perez-Cera, Jeanette Gutierrez, and Richard Spinello. Comments are summarized in the following section.

Questions were raised pertaining to the consultant who was hired to speak to the employees. Members were informed that the Board authorized the \$3000 expenditure, and that the consultant was instructed to provide a balanced view during a one-time video viewing, and to make no other contact with employees. In addition, the consultant instructed management not to speak to employees about the matter and to make no anti-union comments.

Several members expressed their concern over the reputation of the organization since many people are of the opinion that the State Bar is fighting the union. This is the public's impression since the layperson doesn't understand jurisdiction. The professionalism of the organization was put in question. The possibility of receiving dues challenges from members who disagree on whatever outcome emerges was brought to everyone's attention.

The issue of whether the bar is actually public or private was addressed by many in attendance. It was stated that, even though the Board is comprised of elected officials, the State Bar was created and is regulated by the New Mexico Supreme Court. As such, the Bar is part of the judicial system and does not take political positions. If staff were to unionize, the Bar would be required to take a political position and doing so would result in advocacy. How this would affect the administration of justice was questioned. A strike would prevent the Bar from implementing its main function. The analogy was made as to what would happen if staff of the state legislature were to go on strike. It was also mentioned that if the Bar were public, state benefits and services would be given.

Other members were outraged that the Board was not looking beyond the jurisdictional issue and permitting staff the right to organize regardless of whether the organization is deemed public or private. They requested that the votes be counted and the employees be allowed to make the decision in an effort to bring peace to the situation and move forward. The potential cost of the appeal was of great concern to those of this opinion. It was noted that members who oppose dues money being used toward an appeal would be opposed to dues money used toward union wages or bargaining activities.

The divisiveness of this issue was likened to that of building the new bar center. Some members reiterated the previous comments that the leaders of the Bar were elected to make these types of decisions.

Yet other members insisted that the rule of law be followed, which includes first establishing jurisdiction. It was pointed out that the right to organize is not an inalienable right, but a statutory creation. The statute might not apply currently to State Bar employees; however, organization under PEBA is a future possibility.

A lengthy discussion ensued to devise a compromise, allowing the employees to organize, but not under the NLRB. Though federal jurisdiction would preempt such a decision, the question arose as to whether the employees might withdraw their petition if their needs could be met by other means. The value of the structure of the 60-year-old system established of the NLRB was noted and reinventing the wheel with a hybrid form of a union was discouraged. It was noted that when the Bar's status (public or private entity) is determined, the possibility of looking at public models exists.

Employees were invited to speak, and President Torres began by reading letters from those who could not attend. Most contained positive comments regarding working conditions, flex time, benefits, and treatment by management.

Peggy Shannon spoke first on behalf of the employees. In summary, she informed the attendees that having a union was not their main goal and wages were not an issue. Ms. Shannon stated that there were many real problems that had significantly lowered employee productivity, and they needed to be addressed. Otherwise, the problems would not disappear, with or without a union. She further stated that employees believe they have no one with whom to address their concerns, including supervisors, without fear of retaliation.

Veronica Cordova explained to those present that her own negative, discouraging experiences motivated her to take action to bring integrity, respect and accountability to the organization. She expressed her disappointment that staff voted on July 22nd and their voices were still not being heard. She implored the Board to let the votes be counted and fulfill employees' wishes to bring about a better working environment. She stated that if change didn't come from the top down, it would come from the bottom up.

Board members impressed upon the employees that simply because the Board was addressing jurisdiction didn't mean that they wanted to ignore the real issues. President Torres and other Board members expressed their wish that employees come to them with concerns and that they could do so without fear. President Torres stated that the Board first heard of the union petition on April 4th and were instructed to not talk to employees.

Commissioner O'Brien moved that the State Bar's pro bono attorney speak with the union attorney to work out a compromise. Commissioner Vigil seconded, and the motion passed with one opposition.

8. Executive Session

Pursuant to Board Policy 1.2, the Board went into Executive Session

9. Executive Session Report

No action was taken.

10. Acceptance of Financials

Secretary-Treasurer Vigil reported that revenue from the Web site was below projections, but the overall budget should break even. Commissioner Whitefield moved to accept the financials. Commissioner Hoffman seconded, and the motion passed.

11. Discussion Regarding Reciprocity

Jack Clough addressed the Board and reminded them of the report presented to them last fall by the Multijurisdictional (MJP) Task Force. He urged them to reconsider moving to true reciprocity, the condition which New Mexico would allow attorneys to practice in the state without taking the bar exam as long as the other state allowed the same. Mr. Clough cited the fact that only 22 states currently have no reciprocity, and stated that the main constraint in doing so was the ability to conduct an FBI check. This problem, however, could be solved.

President-elect Alcott expressed his support and informed the Board that Texas, Oklahoma and Colorado were interested in a regional bar. Commissioner Wolf stated her opposition from the standpoint that the Board of Bar Examiners would not be able to enforce policy and disciplinary control over attorneys from other states. The politics of the current make-up of the NM Supreme Court was also cited as a limitation. Mr. Clough urged the Board to move to make a concerted effort to approach the Supreme Court, and to forgo the restriction of requiring five years of practice.

Secretary-Treasurer Vigil suggested that the Board urge the Supreme Court to reconsider the matter. Commissioner Whitefield reiterated the Disciplinary Board's concerns over enforcing rules, and Commissioner Vigil further acknowledged that other states might not learn of disciplinary action taken in an attorney's home state, and that measures would need to be put in place to address these concerns.

Commissioner Dawdy moved to accept the recommendation. President-elect Alcott seconded, and the motion passed.

12. Approval of Membership Services Committee's Recommendation to Modify MBNA Program Endorsement and Recommendation to Renew ABA Members Retirement Program Endorsement (Tabled at July 25th meeting)

Maggie Gombos informed the Board that the ABA Retirement Program had been automatically renewed since notice to terminate had not been given. MBNA has offered a new product – a travel reward card – and has changed its method of royalty calculation. The committee recommended that the Board authorize adding the travel reward card in which the customer earns points for air travel, hotel and car rental with no annual fee, no black outs and no restrictions. Commissioner Briones moved to approve adding the new reward card as a membership service, and Commissioner Vigil seconded. Commissioner Dawdy objected because of the company's involvement in the bankruptcy legislation issue. The motion passed with two objections.

MBNA's current method of calculating royalty payments is \$1 per new account, \$1 per renewal and .20 per transaction. The change involves only the transaction payment that will now be 1-½ of one percent of retail sales; this translates to nearly double earnings for the State Bar. Commissioner Hernandez explained that competition in the industry was currently high. He cited a large endorsement contract between the UNM Alumni Association and a credit card company in to keep its business. Ms. Gombos informed the Board that the State Bar is committed to MBNA until 2003. Commissioner Dawdy moved to table the approval of modifying the program endorsement, and Commissioner Ontiveros seconded. The committee will investigate other options and attempt to negotiate with other credit card companies.

13. Approval of Action Plan to Defeat New Liability Standards Against Bankruptcy Lawyers (Tabled at July 25th meeting)

Bankruptcy Section Chair Thomas Walker reported that provisions of the current legislation regarding new liability standards for bankruptcy lawyers were overreaching and “anti-lawyer.” Currently, clients must certify under the penalty of perjury that all records, including their schedules of assets and liabilities, are correct. The proposed legislation would hold clients’ attorneys accountable. According to Mr. Walker, the purpose of the legislation is to discourage bankruptcy filings. Further, credit card company MBNA’s attorneys were instrumental in drafting the legislation.

Commissioner Behles moved to allow the Bankruptcy Section to submit a letter to Congress as the official position of the State Bar. Commissioner Whitefield seconded. Commissioner Dawdy requested that the term “anti-lawyer” be amended to include the consumer and read “anti-debtor/lawyer” provisions.

Commissioner Vigil noted that doing so would be lobbying and that the Bankruptcy Section could make its wishes known, but that they should not be construed as a State Bar official position. Following discussion regarding the policy and procedures of disclosing lobbying to members, Commissioner Vigil requested an amendment to the motion that the matter be studied further and a report be brought back to the Board. Commissioner Behles accepted the amendment along with an appointment by President Torres to chair the subcommittee to conduct the study. Commissioners Briones and Whitefield were also appointed. The motion passed.

14. Report on Annual Convention

- A. Chris Halter reported that the 2002 Annual Convention in Sedona, Arizona was a success, especially since this was the second year in a row that convention was held out of state. Three hundred attorneys participated, and the social events drew large numbers, particularly the Mystery Dinner Theater, which was sold out. Comments regarding CLE faculty and content were also very favorable.
- B. The Annual Convention Planning Committee did not meet prior to the September 13th Board meeting; therefore, no vote to select the location for 2003 was cast.

15. Reports from Divisions (Tabled at July 25th meeting)

- A. Young Lawyers Division Chair Trent Howell reported that the division met in Sedona at Annual Convention; they are working on Law-Related Education Programs, especially Dialogue on Freedom in which they will facilitate local programs and serve as primary points of contact for schools; the division is in its second year of the mentorship program with the UNM School of Law; and members of the division will attend the new admittee swearing-in on September 30th.
- B. Senior Lawyers Division Delegate Dan Behles requested that Commissioners assist the Senior Lawyers Division with the KOB Call-In this month, especially since there would be two sessions instead of the usual one per month. He reported that they normally receive 160-200 calls per month from consumers, and distributed a sign-up sheet with program statistics. He also reported that a subcommittee, headed by Rex Throckmorton, was rewriting a publication entitled, “How to Close a Law Practice,” and hoped to complete the first draft by the end of this year.
- C. Legal Assistants Division Liaison Sandra Byer reported that the division currently has 150 active members; their annual meeting will be held in December or January; the division has kept its expenses within budget this year, although advertising revenues from their Web sub-site and Focus newsletter have been lower than projected. The Division will host a regional meeting of paralegals to include Colorado, Arizona and Texas; election materials will be mailed next month; and results from the division’s online job bank have been disappointing. They plan to work with State Bar Marketing Manager Peggy Shannon for advertising assistance.

16. Report on Dialogue on Freedom Programs for Fall 2002

Joyce Stowers encouraged Commissioners to read President Torres' article on "Dialogue on Freedom" in the current issue of the *Bar Journal* for an update on the program.

17. Report on 2002 Bench and Bar Conference

Maggie Gombos reported that a brochure with a registration form was inserted in the August 29th issue of the *Bar Bulletin*. Co-chairs Virginia Dugan and Stevan Schoen developed the theme, which focuses on understanding generational differences. Associate Dean in the College of Education at the University of New Mexico Dr. Breda Bova will be the featured presenter. The next Board meeting will be held on October 24th in conjunction with the conference that is held every other year. Attendance is normally 150–200.

18. New Business

President Torres reported that the Hispanic Bar Association Board would like to partner with local bars statewide, and plans to hold a reception at the conclusion of the Bench and Bar Conference in Las Cruces. The reception would honor retired Judge Dan Sosa, and the HBA requested that the State Bar cosponsor the reception. Commissioner Behles moved to approve cosponsoring the reception in the amount of \$250. Commissioner Ontiveros seconded, and the motion passed.

Commissioner Briones commended the San Juan County Bar Association, comprised of small firms, for its fundraising abilities. They hosted a firm picnic, bus trip to the Stratton Hotel in Durango, sponsored \$1,000 toward Annual Convention, and they plan on hosting a fall dance in November.

Commissioner Dawdy asked, on behalf of four members in the Seventh Bar Commissioner District, that the Board consider de-unification of the Bar. They requested that this be a topic for discussion on the October meeting agenda, and a poll of membership to be taken. Although the members requesting consideration support the goals of the State Bar, they do not want mandatory membership and do not believe they receive enough services to justify the cost of dues. The *Bar Bulletin* and Advance Opinions were stated as the only obvious benefits, and those services might be produced more inexpensively through a free enterprise system. The Board agreed to allow them to speak at the next meeting, and requested that they bring research and a cost estimate to poll the membership. Commissioner Wolf mentioned that Dean Desiderio had previously conducted research.

There being no further new business, the meeting was adjourned.

BOARD OF BAR COMMISSIONERS
October 24, 2002 MEETING MINUTES
Las Cruces Hilton
Las Cruces, New Mexico

MEMBERS PRESENT:	Colin C. Alcott Daniel J. Behles B. Paul Briones Robert D. Castille James H. Dawdy, Jr. Virginia R. Dugan David N. Hernandez A. Drew Hoffman Trent A. Howell (by phone)	Richard L. Kraft Daniel J. O'Brien Monica M. Ontiveros Donald C. Schutte John S. Stiff (by phone) Mary T. Torres Charles J. Vigil Carolyn A. Wolf
MEMBERS ABSENT:	Sandra B. Byer Jane Shuler Gray Dennis E. Jontz	Russell D. Mann Elizabeth E. Whitefield
OTHERS PRESENT:	Kris Becker Gwenn Bolling Roger Eaton Maggie Gombos Christine Halter	Sandy McKay Madonna Rutherford Roy Reynolds Bob Sabin Joyce Stowers

1. Approval of September 13th Meeting Minutes

Commissioner Briones made a motion to approve the September 13, 2002 meeting minutes. Commissioner Hernandez seconded, and the motion passed.

2. Finance Committee Report

Secretary-Treasurer Vigil reported on the following discussion and action taken at the Finance Committee meeting held prior to the Board meeting:

- A.** Lawyers Care was funded at \$58,000 in the 2002 budget; however, the program will have used the total amount by the end of October. The program needs extra funding or will have to lay off two employees. Commissioner Wolf made a motion to provide extra funding. Commissioner Ontiveros seconded, and the motion passed.
- B.** President-elect Alcott requested authorization for the committee to approach Wells Fargo and other banks to negotiate a better mortgage rate option. Commissioner Wolf made a motion to authorize the committee to negotiate a better mortgage rate. Commissioner Ontiveros seconded, and the motion passed.
- C.** Madonna Rutherford requested that she become the primary credit cardholder and add Roy Reynolds for CLE matters. Former Executive Director Cheryl Bruce had been the primary cardholder; however, when she resigned, she was the only person authorized to cancel the account. Ms. Rutherford added a contingency that her personnel file shall include written documentation that, should she leave the organization or be unavailable, the current bar president would have the authority to communicate with the credit card company. Commissioner Wolf made a motion to accept the recommendation. Commissioner Behles seconded, and the motion passed.

- D. Roy Reynolds informed the Board of the confusion among members regarding who to call (CLE or the Commission on Professionalism) to register or obtain information for the professionalism course. CLE had been handling tape rentals and the Commission had been handling live programs, video replays, and facilitated group showings. Mr. Reynolds, Ms. Rutherford and Ms. Halter developed a plan under which CLE would administer all aspects of the course and pay the Commission \$29 for the remainder of 2002 and \$31 per registrant in 2003 in order to provide the Commission with projected revenues.
- E. The committee approved collection of dues for the National Hispanic Bar Association on the 2003 Dues and Licensing Form. They will pay the 4% processing fee assessed to all voluntary bars for this service.

Commissioner Ontiveros made a motion to accept the Finance Committee report. Commissioner Behles seconded, and the motion passed.

3. Approval of 2003 Budget

Secretary-Treasurer Vigil reported that the budget was balanced, and the committee had a difficult task in doing so this year. The Finance Committee made the following adjustments in the preceding meeting. The SLD budget was increased by \$1000 to \$2000. The YLD budget was increased by \$2000 to \$18,000, with none of the budget allocated to the Leadership Training Institute. Other sources of funding will be found for 2003 if the program is to continue. Board governance was increased by \$3000 to cover meeting expenses at Annual Convention to be held in Tucson, AZ. The increases will be taken from the line item for the executive director's salary since that will not be paid for several months. Commissioner Briones made a motion to approve the adjustments for the final budget disclosure. Commissioner O'Brien seconded, and the motion passed.

Commissioner Wolf informed the Board that Paul Owens, chair of the Board of Editors, inquired if their board would be able to comment on the reduction of Bar Journals to be printed in 2003 from four issues to two issues. It was decided to invite him to the January meeting.

Commissioner Dawdy inquired as to the accuracy of the Popejoy/Keller challenge fees and if there were a possibility of eliminating those costs. Ms. Rutherford explained in brief the history that necessitates the yearly audit.

4. Acceptance of Financials

Madonna Rutherford informed the Board that, by year-end, the organization would be operating at either a \$20,000 surplus or a \$20,000 deficit. Commissioner Wolf made a motion to accept the financials. Commissioner Ontiveros seconded, and the motion passed.

5. Approval of 2003 Dues and Licensing Form

Ms. Rutherford informed the Board that the 2003 dues form would be improved by printing specifics for each individual such as year admitted, fee assessed, and the Disciplinary fee. Changes to the form included adding the National Hispanic Bar Association and moving contributions to the Center for Civic Values from the category of voluntary bars to the category for contributions. A Client Protection Fund fee of \$15 per member will be assessed, contingent on New Mexico Supreme Court approval. Commissioner Wolf moved to accept the form, and Commissioner Hoffman seconded.

Much discussion followed regarding terminology to be used for the title of the form and the Client Protection fee as well as various issues regarding the Client Protection Fund. Commissioner Behles suggested eliminating "and License" from the title of the form. Demographic information was also discussed and "Law School Attended" was eliminated. The amendments were approved, and the motion to accept the form with the designated changes passed. Commissioner Dawdy made a motion to eliminate page two. It was noted that MCLE depends on much of the information, and the motion failed due to lack of a second to the motion.

6. Appointment of Management Oversight Committee

President Torres appointed the following members to the committee which was organized to provide employees with an entity to which they could address concerns during the time of transition: Mary Torres, Colin Alcott, Dan O'Brien, Charles Vigil, Virginia Dugan, and Paul Briones.

7. Discussion of ABA Operational Survey

President Torres informed the Board that two staff from the ABA Division for Bar Services plus an executive director from a similar bar would be able to begin an analysis of the organization in December. They would examine Board minutes, policies, etc., prior to conducting a two-day onsite visit to meet with employees. The cost of the service would be \$1500 plus travel expenses, and would result in concrete recommendations as to structure, policies and procedures. Commissioner Alcott made a motion to fund the survey. Commissioner Vigil seconded, and the motion passed. According to the ABA, the maximum expenditures would not exceed \$3500.

8. Executive Session

Pursuant to Board Policy 1.2, the Board went into Executive Session. Commissioner O'Brien moved to go into Executive Session. Commissioner Ontiveros seconded, and the motion passed.

9. Executive Session Report

President Torres reported that former Executive Director Cheryl Bruce's resignation was accepted, and the severance agreement was ratified. Specific personnel action was approved. In addition, it was decided that the task force formed on September 13th to study the policy manual would wait for the results of the ABA Operational Survey before meeting.

10. Approval of 2003 Annual Convention Site

Commissioner Dugan, Co-chair of the Annual Convention Planning Committee, reported that the committee had met on October 9th and had decided on Loews Ventana Canyon Resort in Tucson, Arizona. The room rate would be \$82 from July 9-13, and Commissioner Hernandez noted that winter rates at this beautiful resort were extremely high. Commissioner O'Brien informed the Board that Justice Maes does not want to continue convention, except perhaps on an every-other-year basis. Commissioner Hoffman made a motion to approve the 2003 Annual Convention site. Commissioner O'Brien seconded, and the motion passed.

Several Board members voiced opinions, both for and against the location, distance, the fact that an out-of-state convention would be more costly, and the fact that it is a resort with family activities in close proximity.

The motion passed with nine in favor and four against.

11. Appointment of Executive Director Selection Committee

President-elect Alcott explained to the Board that the ABA Operational Survey, Management Oversight Committee and the Executive Director Selection Committee's efforts would dovetail. He further stated that the final selection would be postponed until June of 2003 in order to digest recommendations from the ABA. Recommendations will include job descriptions, qualifications and appropriate compensation for the E.D. The selection committee will be a large diverse group that will interview and select three or four finalists on which the Board will vote.

He appointed the 2003 officers (Dugan, Vigil, O'Brien, and himself as chair); three past presidents (Torres, Hernandez, Doerr); Dennis Jontz on request; a representative of the Hispanic Bar (President Torres to contact); a representative of the Women's Bar (Commissioner Dugan to contact); a representative from the Black Lawyers Association (Ray Hamilton nominated); a

representative from the Indian Bar; Commissioners Briones and Shuler (nominated by the Board); and Executive Assistant Kris Becker. The committee shall meet prior to the December 6th Board meeting.

Discussion followed regarding postponing the final decision until June, and it was agreed that there was no need to rush into the decision.

12. Discussion Regarding Possible Amendments to the Editorial Policy of Bar Publications

President Torres suggested appointing a subcommittee to work with the Board of Editors so that the President and other BBC members did not need authorization from the Board of Editors to publish letters/articles. Discussion followed and it was determined that establishing a subcommittee was not necessary at this time. It was recommended that, as Director of Communications, Sandy McKay should be added as a member of the Board of Editors.

13. CLE Update

New CLE Director Roy Reynolds provided the schedule for programs in 2003 and outlined his plan to add approximately 63 new programs to the 85 programs that will be held by the end of 2002. Mr. Reynolds has 28 years of experience with convention and meeting planning, and has conducted CLE programming for SMU during the last 18 years. He plans to expand programming around the state as well as on a national level, and met with the dean of the law school to coordinate programs. He will also renegotiate contracts with satellite downlinks that have been in disarray, and contact LegalSpan to obtain the training to add to the programs that are now available online. Mr. Reynolds is committed to providing an array of programming and price levels and to continuing the \$70,000 in assistance to the Bar for Annual Convention.

14. Discussion of YLD Budget Cuts

YLD liaison Trent Howell explained to the Board that, even with the proposed \$2000 increase to the budget for a total of \$18,000 in expenses, the funding would not cover Leadership Training Institute (LTI) next year. The Board informed him that the additional \$2000 should be allocated to travel, not LTI. Discussion followed regarding whether or not to suspend the program for next year. Commissioner Kraft emphasized that the program would lose momentum and die if it were not held every year. The program lost \$12,000 in 2001, not including the amount of labor allocated to run the program. President-elect Alcott noted that the budget initially had a \$140,000 budget deficit under which the Finance Committee began to balance the 2003 budget. He believes that staff has been spread too thin with the number of programs undertaken by the Bar. Mr. Howell impressed upon the Board that they would seek outside funding, including the ABA as a source. Therefore, the decision of whether or not to continue the program was postponed.

15. Discussion of Policy Issue Regarding New Admittees and Member Benefits

Director of Membership Services Maggie Gombos informed the Board that spring new admittees receive a directory the following fall; however, fall new admittees are required to wait almost an entire year since they were admitted after the mailing of the directories. Funds had not been budgeted to include fall new admittees in the 2001 and 2002 directory mailings. The directory costs \$14 to produce, and fall new admittees pay significantly less in dues than spring new admittees.

Director of Communications Sandy McKay reported that she had been instructed to order a very conservative amount of directories in 2001, and that there were none left to mail to new admittees. She also informed the Board that a new vendor would be used next year, lowering our cost to \$9 per directory.

Commissioner O'Brien made a motion that all new admittees shall receive any publication or document that any lawyers receive. Commissioner Hernandez seconded, and the motion passed. Commissioner Behles moved that the State Bar take the remaining directories from this year and mail them to the new admittees recently sworn in. Commissioner Hernandez seconded, and the motion passed.

16. Proposed Amendment to Commercial Litigation and Antitrust Section Bylaws

Maggie Gombos presented the request to delete "and Antitrust" from the name of the section. Commissioner Briones moved to approve the change. Commissioner Behles seconded, and the motion passed.

17. Voluntary vs Mandatory Bar Report

Commissioner Dawdy moved to table the agenda item until the Board receives the report from the ABA and present issues are handled. Commissioner O'Brien seconded and the motion passed.

18. Report on Status of ANLIR Rating

Roger Eaton addressed the Board and strongly recommended that the Board obtain New Mexico Supreme Court approval mandating disclosure of malpractice insurance on a survey. He referred to specific examples in his letter included in the Board materials of clients who could not obtain restitution from attorneys who did not have insurance. President Torres informed Mr. Eaton that the officers would make that request of the Supreme Court on December 18th when presenting the budget. Mr. Eaton requested the matter be addressed in time for inclusion on the 2003 Dues and Licensing Form. He further questioned whether or not the Bar was liable for attorneys without insurance who are included in the Web site directory. Joyce Stowers also shared her concern over the fact that staff does not know whether or not attorneys to which they refer cases have insurance. President Torres noted the low number of member respondents (approximately 1000) to this question on the 2002 Dues Form.

Bob Sabin reported that the Lawyers Professional Liability Committee (LPL) recommends that the Board give notice to ANLIR immediately with intent to terminate the endorsement at the earliest possible time under the contract, which would be October of 2003. They further recommend that members be given notice in the *Bar Bulletin*. This recommended action is a result of ANLIR's rating by AM Best from A- to B- due to a high number of hospital and nursing home losses that pulled the rating down of the entire reciprocal. However, it was agreed that the option to reconsider, should the rating improve satisfactorily, be left open. Mr. Sabin stated that ANLIR remains one of the best insurance companies on the market.

Having given notice of termination, the State Bar would waive its right to directly appoint a member to the ANLIR Board. However, Steve Doerr would be elected by the ANLIR Board and has agreed to serve as an individual member, not representing the State Bar. Commissioner Vigil moved to approve the committee's recommendations. Commissioner Castille seconded, and the motion passed. The LPL Committee will draft the language for the *Bulletin* notice, and submit it for review by ANLIR and the Executive Committee.

Discussion followed regarding mandatory insurance and increased insurance rates. It was decided that results of the questionnaire be obtained prior to deciding on how to proceed. Confidentiality of disclosure was also discussed, and requesting the information in a separate questionnaire, as opposed to inclusion on the dues form that would be mailed by December 6th, was preferred. Commissioner O'Brien made a motion that authority be requested from the Supreme Court for mandatory disclosure. Commissioner Wolf seconded, and the motion passed. President Torres stated that it could be presented to the Supreme Court at the same time as the \$15 Client Protection Fund dues assessment request.

19. President's Report

President Torres reported the following:

- A. She presented the professionalism program with President-elect Alcott in Taos on October 2nd, and on October 10th at the Chaves County Bar.
- B. She and President-elect Alcott attended the new admittee swearing-in on September 30th.
- C. She attended the National Hispanic Bar Conference at no expense to the Bar, and supported Chief Justice Serna in receiving the National Hispanic Judge of the Year Award. Ernie Calderon, President of the Arizona Bar, received the National Latino Lawyer of the Year Award, and Alan Varela, Vice President of Programming, is on track to become the National Hispanic Bar President.
- D. She attended the National Bar Foundation's Executive Council meeting in Omaha on September 20th.
- E. She will be traveling to Atlanta to attend the ABA Division for Bar Services meeting.

20. President-Elect's Report

President-Elect Alcott reported that he will be attending the Oklahoma Bar Association convention in Tulsa, Oklahoma, from November 20-22nd.

21. Interim Executive Director's Report

Interim Executive Director Chris Halter reported the following:

- A. She thanked the Board for giving her the opportunity as interim executive director, and stated that she has been working with the division directors to make a few changes.
- B. She and the directors have designated time in monthly staff training meetings to provide updates, share the happenings of each division, and to acknowledge outstanding performers. No objections were received from staff for discontinuing the *Bits and Pieces Newsletter* and taking training time for face-to-face briefings. Additionally, the goal of training programs will be to provide tools to assist in day-to-day work at the Bar.
- C. She requested that the BBC Newsletter be suspended during this time of transition, and the Board agreed that brief e-mails could be sent as matters arise.

22. Update on Bankruptcy Section Action Plan to Defeat New Liability Standards Against Bankruptcy Lawyers

Bankruptcy Section Chair Dan Behles reported that he and Commissioners Whitefield and Briones met with Tom Walker. They determined that a letter in support of lobbying against pending legislation could not be sent unless it were done with the Bankruptcy's letterhead due to Keller constraints. Mr. Walker will poll section members and report back to the Board.

23. Report from Commission on Professionalism

Commission on Professionalism Co-Chair Torres reported that, as of September 30th, 24% of active attorneys had completed the professionalism course, a 15% decrease from that time last year. The low compliance numbers are partially attributed to the program not being taped until April 3rd. Plans for 2003 are underway with Andy Schultz conducting a movie clip type program. She reported the following upcoming programs to be given around the state:

November 18th – President-Elect Alcott to facilitate the program in Santa Fe.
November 21st – She will facilitate the program in Farmington
November 22nd – A Commission member is being sought to facilitate in Raton.
December 4th – She and Judge Lang will facilitate the NM Municipal Lawyers Association.
December 10th – Jan Gilman-Tepper will facilitate the ABQ Lawyers Club Association.
December 19th – Joe Paone will facilitate the Valencia County Bar Association.

She announced that the Supreme Court amended the Rule creating the Commission on Professionalism by adding to the Commission the student bar president from the UNM School of Law.

24. Report on Leadership Training Institute

Planning Committee Chair Rick Kraft reported that this year's Leadership Training Institute was comprised of 22 students from seven cities representing one half public sector and one half private sector. The final session would be held November 8th and 9th with graduation the evening of the 9th. He reported that the last session has a great program focusing on the judiciary and includes numerous judges as faculty and panelists.

25. Report on Web Site Redesign

Chris Halter reported that the second phase of the project had officially begun on August 21st with the signing of the Statement of Work with Active Matter, Inc. Since then, staff has been working with Active Matter in in-depth requirements gathering sessions for all of the software programs to be implemented. Final specs were signed on October 10th and Oso Grande Technologies, Inc., provided the graphic design to Active Matter on October 16th. She reminded the Board that, after the detailed analysis of State Bar needs in phase I, Oso Grande recognized that they could not provide the software to meet the Bar's criteria of database integration. Staff training will be conducted in early December, and the site will be transferred to Active Matter's server in mid-December for testing. The site should be live in mid-January.

26. Report on 2002 Bench and Bar Conference

Commissioner Dugan reported that the conference, exploring generational differences in law, officially begins this evening with registration and a reception. Current registration is 113 and walk-ins are expected. There has been great support from the Supreme Court and Court of Appeals – approximately 30 judges are expected. There will be many breakout sessions during which attorneys and judges can share ideas. Maggie Gombos stated that one of the highlights of the conference was a video to be shown at Friday's lunch interviewing four families in the legal profession – Hernandez, Franchini, Walther, and Briones families. President Torres reminded the Board of the Hispanic Bar Reception honoring retired Justice Dan Sosa on Saturday from 4-6 pm following the professionalism program.

27. Report on 2002 Board of Bar Commissioners Election Schedule

President Torres informed the Board that Commissioners Stiff and Hoffman were not running for re-election. She requested three volunteers to assist in counting the ballots on December 2nd. Commissioners Hernandez and Behles volunteered. Commissioners Jontz and Whitefield were recommended, but were not present at the meeting. Commissioner Wolf volunteered should neither of them be available. Board members will be sent the results via e-mail immediately following the election.

28. Reports from Divisions

A. Young Lawyers Division

Young Lawyers Division Chair Trent Howell provided a report earlier in the meeting.

B. Senior Lawyers Division

Senior Lawyers Division Delegate Dan Behles reported that the KOB Call-In had received 2199 calls through the end of October and anticipated over 2500 by year-end. He requested funds to be budgeted for an SLD member to attend the ABA SLD meeting. He informed the Board that the SLD's publication "How to Close a Law Office" would be posted on the State Bar Web site. He informed the Board that SLD would be holding a reception following their December 11th meeting and that all BBC members were invited.

C. Legal Assistants Division

Legal Assistants Division Liaison Sandra Byer was not present.

29. New Business

Board members approved the new agenda format prioritizing action items. Commissioner Dawdy requested information regarding credit card endorsement options. Maggie Gombos stated that the Membership Services Committee was conducting research, and President Torres requested that it be included on the December agenda.

There being no further business, the meeting was adjourned.

BOARD OF BAR COMMISSIONERS
December 6, 2002 MEETING MINUTES
Bar Center
Albuquerque, New Mexico

MEMBERS PRESENT:

Colin C. Alcott	Dennis E. Jontz
Daniel J. Behles	Richard L. Kraft
B. Paul Briones (by phone)	Daniel J. O'Brien (by phone)
Sandra B. Byer	Donald C. Schutte
James H. Dawdy, Jr.	John S. Stiff
Virginia R. Dugan	Mary T. Torres
Jane Shuler Gray	Charles J. Vigil
David N. Hernandez	Elizabeth E. Whitefield
A. Drew Hoffman	Carolyn A. Wolf

MEMBERS ABSENT:

Robert D. Castille
Trent A. Howell
Russell D. Mann
Monica M. Ontiveros

OTHERS PRESENT:

Kris Becker	Melanie Patten
Maggie Gombos	Madonna Rutherford
Christine Halter	Roy Reynolds
Sandy McKay	Richard Rowley (by phone)
Gaelle McConnell	Linda Stocky
Craig A. Orraj	Joyce Stowers

1. Approval of October 24th Meeting Minutes

Commissioner Wolf made a motion to approve the October 24, 2002 meeting minutes. Commissioner O'Brien seconded, and the motion passed.

2. Amendment of September 13th Meeting Minutes

President Torres requested an amendment to the September 13th meeting minutes to reflect that 165 members, rather than the 97 reported, opposed the Bar appealing any decision to the NLRB. President-elect Alcott made a motion to approve the amendment. Commissioner Whitefield seconded, and the motion passed.

President Torres requested an additional amendment to the September 13th meeting minutes as follows: "...165 members were opposed to the Bar appealing any decision of the NLRB," rather than, "...165 members were in favor of collective bargaining." President-elect Alcott made a motion to approve the amendment. Commissioner Wolf seconded the motion, and the motion passed.

3. Finance Committee Report

Secretary-Treasurer Vigil reported on the following discussion and action taken at the Finance Committee meeting held prior to the Board meeting:

- A.** Charlie Wilkinson of Wells Fargo attended the Finance Committee meeting regarding the recently negotiated terms of the Bar Center mortgage refinance. Under the new agreement, the interest rate will be reduced from 8.5% to 6.5%. A \$3000 refinance fee will be assessed, and depending on the amount of the monthly payment, the mortgage could be paid off in 2008 rather than in 2012. The Committee will make a recommendation to the Board at the January 31 meeting regarding monthly payments.

Commissioner Jontz made a motion to approve execution of the documents. Commissioner Dugan seconded, and the motion passed.

- B. Ed Wiley of Wells Fargo spoke to the Finance Committee regarding investment options. The Committee recommended moving \$270,000 from cash reserves at this time and \$65,000 from 2003 bar dues into a laddered one-year CD. Commissioner Whitefield made a motion to approve the recommendation. Commissioner Behles seconded, and the motion passed.
- C. Lovelace health insurance informed the Bar that there would be no increase in medical premiums for staff in 2003. A 12% increase had been included in the 2003 budget.
- D. A third break-in occurred in the Communications Division at the Bar Center the morning of November 19th. Burglars broke through the security bars on the windows before breaking the glass, which sounded the alarm. Police arrived within five minutes, but there was no trace of the vandals. Two Macintosh hard drives were stolen, and no claim will be submitted to the insurance company.
- E. Billing for pledges to Special Projects, Inc. continues with \$22,000 outstanding.
- F. The Committee decided to increase the room rental fee for Defense Lawyers Association (DLA) to begin in 2003. DLA had previously been billed the same rate as the State Bar CLE, but will be billed at the nonprofit rate in 2003.

Commissioner Wolf made a motion to accept the Finance Committee report. Commissioner Stiff seconded, and the motion passed.

4. Acceptance of Financials

Secretary Vigil reported that \$65,000 of cash reserves was transferred to the State Bar bank account in November to cover anticipated payment from CLE for the professionalism program that CLE began administering in October. In addition, he informed the Board that the financials in the materials were one month behind those that would normally be reviewed due to late production cost out information provided by the Communications Division. Commissioner Wolf made a motion to accept the September 2002 financials. Commissioner Stiff seconded, and the motion passed.

5. Update on Client Protection Fund Assessment on 2003 Dues and Licensing Form

President Torres reminded the Board that, at the previous meeting, the fund had approximately \$14,000 to cover \$19,000 of claims with several more claims outstanding. She then reported that the Supreme Court denied the Board's request to assess members a \$15 contribution to the fund, and therefore, the fund would be eliminated. President Torres expressed her concern that doing so would be detrimental to the public perception of attorneys. The Court decided to form a committee with Justice Franchini as chair and President Torres to make appointments. The committee will study the matter of mandatory insurance. They believe that insurance companies seeking opportunity in the pooling of funds would provide an affordable rate. Commissioner Behles noted that malpractice insurance does not cover theft. Commissioner Schutte mentioned the hardship that mandatory insurance would place on attorneys from rural areas and requested that an attorney from an outlying area be included on the committee. Commissioner O'Brien requested that Bob Sabin, chair of the Lawyers Professional Liability Committee, be appointed since he is aware of the problems Oregon has incurred with mandatory insurance. Commissioner Dawdy recommended that the Board not allow the Supreme Court to require the State Bar to administer insurance or to certify that members do, indeed, have insurance.

6. Appointment of Registered Agent

It was noted that Cheryl Bruce was listed as the registered agent for the State Bar of New Mexico, Special Projects, Inc., and the New Mexico State Bar Foundation. Commissioner Hoffman made a motion to appoint the incoming secretary-treasurer as registered agent to serve a four-year term. Commissioner Shuler Gray seconded. The motion was amended to state the term for the length of time the secretary-treasurer serves as an officer on the Board of Bar Commissioners. Amendments were accepted, and the motion passed.

Richard Rowley, II, vice president of the current board of the New Mexico State Bar Foundation joined the meeting by phone to provide the history and the intended purpose of the Foundation. He informed the Board that the organization was declined 501(c)(3) status, and was advised by the IRS to amend the Articles of Incorporation and resubmit the application. At the December 4th meeting of the Foundation board, the directors resolved to dissolve the corporation on the condition that Special Projects, Inc. agreed to change its name to the New Mexico State Bar Foundation.

Madonna Rutherford reported that Brandon Haines of Meyners + Co. had recommended this option to the Foundation. He recommended doing so because the current New Mexico State Bar Foundation had not received its 501(c)(3) status and was organized for a similar purpose as Special Projects. The current Special Projects Board will serve as the new Foundation Board. Commissioner Jontz made a motion to change the name of Special Projects, Inc., to the New Mexico State Bar Foundation after the current New Mexico State Bar Foundation is dissolved. Commissioner Hernandez seconded, and the motion passed.

7. Update on ABA Operational Survey

President Torres reported that the Management Oversight Committee (officers and Paul Briones) had met on December 5th and discussed the following concerns:

- Policy Manual – requested specific recommendations for change from staff by their next meeting on January 30th.
- Christmas Bonuses – decided to combine funds from State Bar and Special Projects and distribute equally among employees.
- Staff Morale Fund – recommended equal distribution among staff. Each division would receive a percentage of the total amount based on the number of people in the division. Division directors would have discretion to distribute funds as they see fit.
- Education Policy – requested that staff send specific recommendations to the committee.
- Announcement of Staff Raises – decided that as soon the Supreme Court approves the annual budget, raises could be announced (prior to the new year).
- Request for Mid-Level Management Training – requested specifics as to what kind of training mid-management would like. A one-day in-house training for all staff will be scheduled. Directors will receive a half-day session on employment issues (hiring, firing, discipline, interviews) and staff will receive a full-day session to include such topics as sexual harassment, ADA compliance, etc. The training will be conducted by pro bono attorneys, and President Torres requested suggestions for speakers.
- Request for Internal Deadlines to be Enforced – President Torres instructed directors to enforce deadlines.
- Status of Union – at this time, no word has come from the NLRB.
- ABA Operational Survey – Associate Director for the ABA Division for Bar Services Elizabeth Derrico and Consultative & Research Services Coordinator Jennifer Lewin joined the Management Oversight Committee meeting by teleconference. They, along with Kansas Bar Executive Director Dennis Harwick, will conduct an onsite visit January 29, 30 and 31. Chris Halter has submitted numerous materials such as policies, minutes of meetings, etc., as background information. They will administer a survey to Board members and staff prior to the visit and share results with the Management Oversight Committee on January 30th. Ms. Derrico requested that staff send confidential concerns directly to her. They will review core operations and make recommendations as to whether or not the organization is undertaking too many activities, is too large for the budget, and is operating efficiently.
- UNUM Disability Insurance – A TV spot on “60 Minutes” demonstrated that consumers were having difficulty receiving payment on claims. Madonna Rutherford reported that the State Bar had experienced no such problems.

8. Executive Director Selection Committee Report

President-elect Alcott reported that the committee met on December 5th and discussed the attributes they seek in the next executive director. They discussed reorganizing the top three positions of the State Bar using the corporate model which includes a CEO who would be the

visionary, conduct outreach, and bring new ideas to the organization; a COO who would run the day-to-day operations including HR; and a CFO who would be in charge of financials. President-elect Alcott informed the Board that the committee would also take into account recommendations from the ABA.

At the meeting on January 30th, the committee will write the three job descriptions and CEO position advertisement to be presented to the Board at the January 31st meeting. The position will be advertised in February nationally through NABE, as well as ASAE and the Albuquerque, Santa Fe and Las Cruces newspapers. The committee will screen each candidate's resume and check references. The salary recommendation will begin with the Finance Committee and then be approved by the Board. The committee agreed that the previous salary had become too high, and that the new position should be hired on contract. At the March 28th meeting, a list of finalists will be given to the Board, and interviews will be conducted at the May 30th Board meeting. Following a contract negotiation period, the new executive director will be in place July 1st.

Commissioner Behles questioned whether or not the organization was large enough to justify having three top positions. Commissioner Briones impressed upon the Board that the executive director position include no HR responsibilities and that authority listed in the policy manual be shifted away from the executive director. Commissioner Wolf questioned the budgetary impact of the three positions and Madonna Rutherford explained that non-budgeted items are always itemized in the budget disclosure document.

Commissioner Wolf made a motion to accept the Executive Director Selection Committee's report. Commissioner Whitefield seconded, and the motion passed.

9. Executive Session

Pursuant to Board Policy 1.2, the Board went into Executive Session.

10. Executive Session Report

Commissioner Whitefield made a motion to accept the proposed new security measures. Commissioner Hernandez seconded, and the motion passed.

11. Approval of Co-sponsorship of the Albuquerque Bar Judicial Reception

Commissioner O'Brien made a motion to approve co-sponsorship of the Albuquerque Bar Judicial Reception in the amount of \$250. Commissioner Whitefield seconded, and the motion passed.

12. Announcement of 2003 BBC Meeting Dates

President-elect Alcott announced the 2003 Board of Bar Commissioners meeting dates as follows: January 31, March 28, May 30, July 10, September 12, October 24 and December 12. He also noted that a retreat might be included by adding an extra day to one of the regular meetings, but that there would be no separate long range planning retreat due to budgetary constraints.

13. Announcement of Election Results and Reappointment of Commissioner Paul Briones to Second Bar Commissioner District

President-elect Alcott announced the election results as follows:

First Bar Commissioner District

Chuck Vigil
Virginia Dugan
Alan Malott
David Berlin
Craig Orraj (one-year term)

Second Bar Commissioner District:
Paul Briones

Third Bar Commissioner District
Monica M. Ontiveros

Fifth Bar Commissioner District
Donald C. Schutte

Sixth Bar Commissioner District
Albert L. Pitts

Young Lawyers Division Chair
Melanie Patten

Legal Assistants Division Liaison
Linda Stocky

14. 2003 Supreme Court Committee and Board Liaisons Sign-Up

The 2003 Supreme Court Committee and Board Liaisons are as follows:

Courts of Limited Jurisdiction – Carolyn A. Wolf
Rules of Criminal Procedure for District Courts – Donald C. Schutte
Rules of Civil Procedure for District Courts – Charles J. Vigil
Appellate Rules – Robert D. Castille
Rules of Evidence – Craig A. Orraj
Uniform Jury Instructions-Civil – Daniel J. O'Brien
Uniform Jury Instructions-Criminal – Donald C. Schutte
Minimum Continuing Legal Education (MCLE) Board – B. Paul Briones
Legal Specialization Board – Daniel J. Behles
Board of Bar Examiners – James H. Dawdy, Jr.
Children's Court Rules – James H. Dawdy, Jr.

15. Appointments to Internal BBC Committees

President-elect Alcott handed out a sign-up sheet for Internal BBC Committees as follows: Finance, Annual Awards, CLE Advisory, Policy/Bylaws and Strategic Planning. Chairs of the committees are as follows:

Finance – Virginia Dugan
Annual Awards – Elizabeth Whitefield
CLE Advisory Committee – Carolyn Wolf
Policies and Bylaws – Chuck Vigil
Strategic Planning – Dan O'Brien
Annual Convention – Virginia Dugan and Chuck Vigil

Commissioner Dawdy made a motion that the composition of the Policies and Bylaws Committee remain the same as in 2002 so that the committee may complete the work in progress by the July 10th meeting. Commissioner Dugan seconded, and the motion passed. Commissioner Alcott announced that the Annual Convention Planning Committee would become a standing committee so that plans may be made two to three years in advance.

16. Report on Status of Client Protection Fund Claims

Consumer Attorney Assistance Program (CAAP) Manager Gaelle McConnell reported that the Client Protection Fund currently has approximately \$14,000 to fund claims exceeding \$23,000. Claimants have been told that they would be paid on a pro rata basis if there is not enough money to cover total claims. Ms. McConnell informed the Board that many of the claimants are

in bankruptcy and spent their last funds on attorney fees. Consequently, they are quite disenchanted with attorneys. President Torres suggested that the individuals write letters to the Supreme Court explaining their situation. She further requested that CAAP explain to the claimants that eliminating the fund was not the State Bar's decision.

Commissioner Wolf made a motion to make December 31, 2002 the final day to accept claims. Commissioner Behles seconded, and the motion passed.

17. President's Report

President Torres reported the following:

- A.** The Judicial Nominating Commission will have 11 vacancies to fill as of January 1, 2003. Dean Desiderio requested nominations be completed prior to December 19th. She informed the Board that the State Bar president appoints members to each nominating commission, and must balance the composition among Republicans and Democrats, plaintiff attorneys and defense attorneys, etc.
- B.** Member Robert Pidcock complained to the New Mexico Supreme Court that only Board members, and not all members of the Bar, are allowed to vote for officers of the Board of Bar Commissioners. President Torres called him and explained that the officer election procedures were set by the Supreme Court Rules as well as the State Bar Bylaws, and suggested that he propose a change to the bylaws and rules.
- C.** Troy Prichard and Kyle Moberly of Las Cruces were appointed to the Legal Advertising Committee.
- D.** Dr. Henry Casso, founder of MALDEF, requested a national celebration be held next summer in honor of Justice Petra Maes, since she will be the first Hispanic female Chief of any supreme court in the United States. Justice Maes would like a video produced to encourage minorities to enter the practice of law and to seek judgeships. President Torres informed him that the State Bar would not be able to assist with funding; however, she would request assistance from the ABA Division for Bar Services.
- E.** She attended the dedication ceremony of the new Hart Wing that doubles the size of the UNM School of Law.
- F.** She spoke to the Chief Judges Council on November 15th about their support for the "We the People" program. She has sent a follow-up letter to each of the chief judges requesting that they contact their local bar leaders.
- G.** She thanked the Board for their support and patience during her tenure as president and distributed gifts to the commissioners in appreciation for their hard work.

18. President-elect's Report

President-elect Alcott reported the following:

- A.** He announced that the swearing-in ceremony for the officers and new commissioners would be held at 10 am on December 18th at the Supreme Court in Santa Fe.
- B.** He attended the Oklahoma State Bar Annual Convention in Tulsa.
- C.** He announced the proposal of the "Four Corners Compact" of multijurisdictional practice among New Mexico, Colorado, Utah and Arizona, which would grant attorneys who graduated from an ABA-accredited law school and was licensed in any of the four states for five years or more the right to practice law in any of the four states. The supreme courts of Utah and Colorado have approved mirror reciprocity and will invite Arizona and New Mexico to join.

19. Interim Executive Director's Report

Interim Executive Director Christine Halter reported the following:

- A.** Director of Membership Administration and Support Division Maggie Gombos and Director of CLE Roy Reynolds accompanied her to the Albuquerque Bar Luncheon

- and professionalism program, presented by the Lawyers Assistance Committee, on November 5th.
- B. Directors and middle management attended a “meet and greet” hosted by the Legal Assistants Division.
 - C. Roy Reynolds, Lawyer Referral for the Elderly Program Managing Attorney Becky Jiron and she met with Maggie Gombos and the Elder Law Section, a section that had been inactive for a couple of years. They assisted with development of the section’s vision and goals.
 - D. She attended recent meetings of the Bar Foundation described in agenda item number six.
 - E. She coordinated meetings of subcommittees for the Commission on Professionalism during which end-of-the year reports for the full Commission were completed, and goals for the upcoming year were set.
 - F. She attended a recent meeting of the Public Legal Education Committee during which the committee made plans to encumber funds for 2003 to run PSAs with the New Mexico Broadcasters Association.
 - G. Weekly directors’ meetings and monthly staff meetings continue. At the previous staff training, Marketing Manager Peggy Shannon spoke to staff regarding daily marketing tips that could be used by all employees, and Webmaster Veronica Cordova presented the new intranet that she developed as a staff resource. Policies, procedures, forms and other information that staff use on a daily basis are located on the intranet.

20. CLE Report

Center for Legal Education Director Roy Reynolds distributed the business plan he developed for CLE. He reported that he had spent three weeks rebuilding the relationship with the law school. He plans to reach out to local bars across the state and increase CLE programming in 2003 to three programs per week. He has been working with Chief District Judge Jim Hall who requested CLE provide seminars that teach new attorneys about the court process. During the course of the previous five to six weeks, he has been gaining support from the New Mexico Supreme Court regarding Annual Convention. He has submitted a bid to the Texas Supreme Court and the University of Virginia so that programming for the National Association of Appellate Judges would be provided by the State Bar.

21. Annual Convention Report

President-elect Alcott reported that, although Justice Maes seemed in favor of eliminating Annual Convention, she has been active in planning for the 2003 Annual Convention. She is requiring that attendance be 1000 to 1500 members in order to hold a convention in 2004. Many of the programs for 2003 are geared toward the judiciary and attorneys will be allowed to participate. Justice Maes will require chief judges and district judges to attend as long as the State Bar subsidizes mileage and airfare for those 40 judges. Registration will be increased from \$50 to \$75, and exhibitor fees will be increased to \$1500 - \$2000 to help cover the costs. President Torres will contact Justice Kennedy and request he speak at convention. Awards will be presented at several meal functions rather than all of them being presented at only one function.

22. Report from Commission on Professionalism

Commission Co-chair Mary Torres reported that, as of December 4th, approximately 50% of members had not completed the professionalism credit requirement. She requested that Board members inform their constituents that they would receive a \$100 fine for noncompliance if the course were not completed by yearend. She requested that the subject line of e-blasts from the Bar include mention of the fine. The MCLE Board has requested more aggressive marketing on the professionalism course.

She informed the Board of Jan Gilman-Teppler’s idea for the course in 2004 that she developed after attending a Hispanic cultural presentation at the Albuquerque Bar. She suggested that a videotape be made of members who epitomize professionalism from voluntary bars.

Co-chair Torres reported that she presented professionalism programs at the law school, in Farmington, Taos, Roswell and with the New Mexico Municipal Attorneys Association. President-elect Alcott presented the program in Santa Fe, and programs were also given in Raton and at the Bench and Bar Conference.

23. Reports from Divisions

A. Young Lawyers Division

Melanie Patten reported on the mentorship program, noting Mo Chavez and Lisa Chavez's involvement. YLD officer elections will be held in January.

B. Senior Lawyers Division

Dan Behles reported that, due to budgetary constraints, there would be no reception in December as originally planned. SLD officers will be elected at the January board meeting.

C. Legal Assistants Division

Sandy Byer announced that Linda Stocky was elected chair and Board liaison. LAD's annual meeting will be held in January in conjunction with a CLE seminar. LAD board orientation will be held in February. The division operated within its budget for 2002. An ad hoc committee was formed to change the name Legal Assistant to Paralegal. The ABA is voting on changing the name to Paralegal. LAD will need to request from the Supreme Court a change in both the Statutes and Bylaws. The division reported 155 active and 14 inactive members.

24. New Business

There being no new business, the meeting was adjourned.