

**BOARD OF BAR COMMISSIONERS**  
**January 23, 2004, MEETING MINUTES**  
**Bar Center, Albuquerque, NM**

**MEMBERS PRESENT:**

|                    |                         |
|--------------------|-------------------------|
| Henry A. Alaniz    | Damon P. Martinez       |
| Colin C. Alcott    | Daniel J. O'Brien       |
| B. Paul Briones    | Monica M. Ontiveros     |
| Daniel J. Behles   | Craig A. Orraj          |
| David M. Berlin    | Jessica A. Perez        |
| Robert D. Castille | Albert L. Pitts         |
| Morris J. Chavez   | Donald C. Schutte       |
| Jane Shuler Gray   | Stephen S. Shanor       |
| Kay L. Homan       | Charles J. Vigil        |
| Dennis E. Jontz    | Elizabeth E. Whitefield |

**MEMBERS ABSENT:**

James H. Dawdy, Jr.  
Virginia R. Dugan

**OTHERS PRESENT:**

|                        |                     |
|------------------------|---------------------|
| Jeff Albright          | Christine Morganti  |
| Judge Rudy Apodaca     | Anita Otero         |
| Kris Becker            | Madonna Vandeventer |
| Joe Conte              | Richard Spinello    |
| Sandy Gomez            | Joyce Stowers       |
| Rob Koonce             | Todd Wertheim       |
| Justice Pamela Minzner |                     |

**1. Presentation of Casemaker**

Casemaker representatives Keith Ashmus, Bradley Lagusch, and Denny Ramey, President, Director of Marketing and Executive Director, respectively, of the Ohio State Bar Association, provided a presentation on the online legal research product. The Casemaker Committee met with the representatives the day prior to the Board meeting and recommended approving Casemaker as a benefit to members at no charge. The cost to the State Bar would be approximately \$57,000, or \$10 per member, annually. Thirteen bar associations have joined the consortium and as other bar associations join, those states' laws are made available to members. Kathleen Jo Gibson reported via teleconference possible concerns regarding the product because the Compilation Commissioner sells statutes, court rules and administrative code to all state agencies and it receives royalties from publishers for the copyrighted material. If members receive the information through Casemaker, it could have a significant financial impact on the Court's budget. Ms. Gibson requested that the Board table the decision until the March meeting to give the Compilation Commission an opportunity to present a response to the Casemaker proposal for the Board's consideration.

**2. Approval of December 12, 2003 Meeting Minutes**

Commissioner Behles made a motion to approve the December 12, 2003 meeting minutes and the motion passed.

**3. Finance Committee Report**

The Finance Committee met prior to the Board meeting and Secretary-Treasurer Jontz reported on the Committee's discussion and recommendations as follows:

- A.** Recommended sponsoring the 2004 Leadership Training Institute and approving the proposed budget in the amount of \$11,800, to be funded from the Annual

Convention line item. Any additional sponsorship money will be used to reduce the State Bar's costs. Commissioner Berlin made a motion to approve the 2004 Leadership Training Institute and the motion passed;

- B.** Recommended approving dues fee waivers for those who met the criteria and complied with the requirements. Commissioner Berlin made a motion to approve the dues fee waivers and the motion passed;
- C.** Discussed and recommended approving six challenges to the 2004 State Bar budget regarding the education of staff on union issues in 2002. While the Board believes the expenditure was germane to the profession, the consensus was to refund that portion of the challengers' dues out of respect for their opinions. Commissioner Behles made a motion to approve the refund for the challenges and the motion passed;
- D.** Executive Director Joe Conte reported that the mailing label system used for addressing the *Bar Bulletin* and CLE brochures is broken and the cost to replace the system would be between \$15,000-\$20,000; leasing the machine is also an option. The Finance Committee recommended approving the purchase or lease of a new mailing label system up to \$21,000. Commissioner Alcott made a motion to approve an expenditure of up to \$21,000 for the purchase or lease of a new mailing label system, at the discretion of Executive Director Joe Conte and President O'Brien, and the motion passed;
- E.** Reviewed and approved the Executive Director's credit card expenses;
- F.** Reported that the Audit/Budget RFP process will begin in March;
- G.** Received a briefing from Meyners + Co. on the audit; and
- H.** Accepted the November 2003 Financials.

#### **4. Acceptance of Financials**

Commissioner Vigil made a motion to approve the November 2003 Financials and the motion passed.

#### **5. President's Report**

##### **A. Swearing-in of New Commissioners**

New BBC Commissioners Morris J. Chavez, Kay L. Homan, Damon P. Martinez, Jessica A. Perez, and Stephen S. Shanor were sworn-in by Supreme Court Justice Pamela B. Minzner.

##### **B. Commissioner Orientation/Overview of Staff Departments**

Commissioners toured the building and received an overview of staff departments.

##### **C. Bar Commissioner District Lists Regarding Target Marketing**

Due to time constraints, this item was tabled to the March meeting.

##### **D. BBC Internal Committees Roster**

A roster of the BBC Internal Committees for which commissioners signed up at the December meeting was included in the materials.

##### **E. Supreme Court Order Approving State Bar's 2004 Budget**

The Supreme Court Order approving the State Bar's 2004 Budget was included in the materials.

**F. Other**

President O'Brien reported that the Long Range Planning Retreat is scheduled for July 23-24 in Los Alamos; the Board meeting will be held the morning of July 23<sup>rd</sup>.

**6. Executive Director's Report**

Executive Director Joe Conte's written report was included in the materials. Mr. Conte reported that the State Bar Newsletter was being reinstated and distributed copies to the Board.

**7. Bylaws/Policies Committee Report**

Chair Chuck Vigil reported on the January 13<sup>th</sup> meeting and requested approval of the following bylaw and policy amendments:

**A. State Bar Bylaws, new Article 2.8—Law Student Membership and new Article 2.9—Affiliate Members**

Amendments were made to the proposed new Bylaws, Article 2.8—Law Student Membership and Article 2.9—Affiliate Members, regarding determining the fee annually. Thirty days' notice of the Bylaw amendments was provided at the December meeting. Commissioner Alcott made a motion to approve the amendments and the motion passed.

**B. Mailing Label/Email Policies**

The committee was requested to address the Board's concerns regarding providing mailing labels/e-mail blasts for political campaigns and revised the policies to not provide e-mail blasts for political campaigns or investment opportunities. The committee recommended that the Bar continue to sell mailing labels for political campaigns but not for investment opportunities. The committee's position remained unchanged with regard to charging for mailing labels/e-mail blasts. Commissioner Alcott made a motion to approve the amended policies and the motion passed.

**C. Editorial Policy/Board of Editors' Request**

The committee amended the Editorial Policy regarding term limits for members of the Board of Editors to serve no more than two consecutive two-year terms. The revision affirms the Board of Editor's request to extend four members' terms for an additional term. Commissioner Briones made a motion to approve the amendment and the motion passed.

**8. Committee for the Delivery of Legal Services to People with Disabilities Request**

Committee Co-chairs Greg Trapp and Sandy Gomez reported that there is a significant barrier in the delivery of legal services to persons who are deaf or hard of hearing. There is a provision to enable effective communication through sign language interpreters, a transcriptionist, or an assistive listening device. However, the ADA prohibits assessing any type of charge to clients for the cost of a reasonable accommodation, which limits the receipt of pro bono legal services. Since sign language interpreter costs can be significant, Mr. Trapp and Ms. Gomez requested funding for a pilot project in the amount of \$500 to be used to reimburse attorneys who had already provided pro bono services. Monies collected from dues form contributions to the Bar Foundation, in addition to a checkoff for this project on the 2005 dues form, would fund this project. Ms. Gomez noted that the committee will develop guidelines and an application process

for distribution of those funds for approval by the Bar's auditor. Commissioner Behles made a motion to approve setting up a designated fund for the pilot project in the amount of \$500 collected from dues form contributions to the Bar Foundation and to add a separate contribution checkoff for this fund on the 2005 dues form, and the motion passed.

#### **9. Task Force to Study the Administration of the Death Penalty in New Mexico Final Report**

Co-chairs Todd Wertheim and Judge Rudy Apodaca presented the final report of the task force. Judge Apodaca reported on the history of the Task Force and the fact that it has been in existence for four years. He stated that the task force was created by the Board in response to the ABA's request for bar associations to study the death penalty. The task force originally studied whether a moratorium should be enforced in New Mexico; however, the Board determined that approach was controversial and requested the mission of the task force be amended to study the administration of, not a moratorium on, the death penalty. The Board changed the name of the task force to reflect the new mission and requested that additional members be added to the task force to diversify its composition. Judge Apodaca thanked Co-chair Todd Wertheim, Marcia Wilson, Carol Clifford and Maggie Gombos for all of their work on the task force and on the final report and noted that prosecutors, lay persons and civil workers all assisted in compiling the report and recommendations. Commissioner Alcott made a motion thanking the task force for its work on the report and for the Board to take the recommendations under advisement. The motion failed for lack of a second. Judge Apodaca noted that the Board didn't need to accept the report; the task force created the report pursuant to the Board's request and the Board could do whatever it wanted with the report. Following discussion, the Board determined that accepting the report did not constitute an endorsement of all of the recommendations. Commissioner Vigil made a motion to accept the final report and the motion passed with one nay. Commissioner Vigil asked who was going to carry out the recommendations, and President O'Brien responded that members of the task force could pursue further action on their own or as a group. Mr. Wertheim requested assistance in distributing the report and for the members of the task force to be included. Mr. Conte stated that the final report and recommendations will be posted on the Bar's web site and hard copies made available upon request. (The Executive Summary is attached.)

#### **10. Committee on Women and the Legal Profession Report**

Committee Co-chairs Jeff Albright and Laura Fashing reported on the committee's activities for 2003 and plans for 2004. The Ask Pat compilation and annual report were distributed to the Board. Mr. Albright reported that the committee has statewide representation with approximately 20 active participants from various areas. He also thanked the Board for the committee pool budget increase and explained that production and distribution of their brochures and pamphlets, which they have made available to the ABA and other state bar associations, are the largest expense in the committee's budget. Ms. Fashing reported that the committee developed domestic violence cards, printed in Spanish and English, and distributed over 7,000 to various organizations. The committee plans to revise the "Handbook for Gender Equality in the Courts," which was last revised in October of 2002, to include a Federal Court insert so that the handbook would be pertinent to Federal and Tribal Courts. In July of 2002, the committee received permission from the Board to introduce legislation requiring that new laws be drafted in gender-neutral terms. The committee intends to draft revisions to the statutes in gender-neutral terms, with assistance from the Legislative Procedure Class at the law school, to be introduced to the Legislative Drafting Committee in 2005. Mr. Albright reported on the Ask Pat compilation, a short booklet prepared from a regular column that had been published in the *Bar Journal* and that addresses many legal issues applicable to both men and women. The committee also plans to hold a classroom session at the UNM Law School on the Ask Pat columns and introduce students to issues on gender neutrality and bias in the courts. Additionally, the committee is planning a CLE to address the "glass ceiling" for women as partners of law firms and judges and the difference in marketing techniques used to attract men and women attorneys.

**11. Membership Services Committee Report**

Christine Morganti reported that Alan Malott resigned as chair of the Membership Services Committee and that Mary Ann Baker-Randall has agreed to chair the committee for 2004. The committee will continue to work on affiliate partnership agreements.

**12. Request from Chief Justice Regarding Judicial Funding from the 2004 Legislature**

Commissioner Whitefield reported that Chief Justice Maes requested assistance from commissioners in approaching legislators they know to support the Court's request for funding from the 2004 Legislature. Information regarding judicial salaries and funding was distributed at the meeting, which reflected that judicial salaries in New Mexico are lower than in most states. Following discussion, the Board agreed to encourage State Bar members to support the courts in lobbying the Legislature for funding to increase judicial salaries in New Mexico.

**13. Division Reports**

**A. Young Lawyers Division**

Young Lawyers Division Chair Mo Chavez reported that three YLD Board members will be attending the ABA Midyear Meeting in San Antonio and that the YLD will be receiving special recognition from the ABA for the Leadership Training Institute. He also reported that the Division was approached by the ABA for the possibility of having the ABA's YLD regional meeting in New Mexico. President O'Brien, Commissioner Hernandez and Executive Director Joe Conte volunteered to work with Mo Chavez to gather information for the 2005 or 2006 national conference for the ABA to consider.

**B. Senior Lawyers Division**

Senior Lawyers Division Delegate Dan Behles reported that the Division held the first KOB-TV call-in program this year, at which nine lawyers volunteered and each handled approximately 20-30 calls; he noted that several of the calls were referred to LREP and CAAP for assistance.

**C. Paralegal Division**

Paralegal Division Liaison Kay Homan thanked the Board for the printing and publishing of the Paralegal Compensation, Utilization and Benefits Survey in the *Bar Bulletin*. She reported that a letter from the Division to the Supreme Court in response to members' comments to proposed Legal Assistant Rules changes was included in the materials for President O'Brien's signature, and that she would be delivering the letter to the Supreme Court.

**14. New Business**

**A.** Commissioner Alcott made a motion to form a subcommittee to look into a State Bar satellite office in Las Cruces. Commissioners Martinez, Pitts and President O'Brien volunteered to work with Executive Director Joe Conte to determine the feasibility of a satellite office, and the motion passed.

**B.** Christine Morganti reported the following:

- (1) The Indian Law Section board complied with proper legislative advocacy procedure, and a quorum of the Section board voted unanimously to support the Tribal State Judicial Consortium's request for funding from the 2004 Legislature;

- (2) The Taxation Section intends to lobby the 2004 Legislature to oppose amendment to Section 7-1-73 of the New Mexico Statutes Annotated 1978 drafted by the New Mexico Taxation and Revenue Department;  
and
- (3) The Children's Law Section intends to lobby the 2004 Legislature to present a memorial to study the pay for attorneys who work in Children's Court.

**15. State Bar's 118<sup>th</sup> Birthday Celebration/Reception**

President O'Brien encouraged commissioners to attend the State Bar's 118<sup>th</sup> Birthday celebration reception immediately following the meeting.

There being no further business, the meeting was adjourned.

**BOARD OF BAR COMMISSIONERS**  
**March 5, 2004, MEETING MINUTES**  
**Bar Center, Albuquerque, NM**

|                         |   |   |
|-------------------------|---|---|
| <b>MEMBERS PRESENT:</b> | Henry A. Alaniz<br>Colin C. Alcott<br>B. Paul Briones<br>Daniel J. Behles<br>David M. Berlin<br>Robert D. Castille<br>Morris J. Chavez<br>Virginia R. Dugan<br>Jane Shuler Gray<br>Kay L. Homan | Dennis E. Jontz<br>Damon P. Martinez<br>Daniel J. O'Brien<br>Monica M. Ontiveros<br>Craig A. Orraj<br>Albert L. Pitts<br>Donald C. Schutte<br>Stephen S. Shanor<br>Charles J. Vigil |
| <b>MEMBERS ABSENT:</b>  | James H. Dawdy, Jr.<br>Jessica A. Perez<br>Elizabeth E. Whitefield  |   |
| <b>OTHERS PRESENT:</b>  | Angelica Anaya-Allen<br>Kris Becker<br>Kathleen Brockel<br>Joe Conte<br>Matt Hughes<br>Rob Koonce   | Christine Morganti<br>Kim Posich<br>Brian Sanderoff<br>Sarah Singleton<br>Richard Spinello<br>Madonna Vandeventer   |

**1. Approval of January 23, 2004 Meeting Minutes**

Commissioner Dugan made a motion to approve the January 23, 2004 meeting minutes and the motion passed.

**2. Finance Committee Report**

The Finance Committee met prior to the Board meeting and Secretary-Treasurer Jontz reported on the Committee's discussion and recommendations as follows:

- A.** Recommended approving dues fee waivers for those who met the criteria and complied with the requirements. Commissioner Berlin made a motion to approve the dues fee waivers and the motion passed;
- B.** Recommended approving a five-year lease with maintenance on a new mailing address system in the amount of \$31,200. Commissioner Alaniz made a motion to approve the expenditure and the motion passed;
- C.** Accepted the pre-audit December 2003 Financials;
- D.** Discussed credit card surcharges in the amount of \$30,000 for the payment of bar dues; the Finance Committee requested staff to research with credit card companies whether the Bar can collect the surcharges from members paying with credit cards and provide a report at the May meeting;
- E.** Recommended approving a transfer to CLE from State Bar in the amount of \$72,812 for the administration of the professionalism program in 2003; Commissioner Pitts made a motion to approve the transfer and the motion passed;
- F.** Discussed casino advertising in the *Bar Bulletin*; the Board requested staff to research with other State Bars and provide a recommendation at the May meeting;

- G. Discussed staff bonuses being incorrectly reported since 1999; the Finance Committee will obtain advice from an attorney to determine whether the W-2 forms need to be reissued and advise the Board at the May meeting;
- H. Reviewed the accounts receivable aging report as well as the Executive Director's travel reimbursements and credit card file;
- I. Discussed a proposal for the Disciplinary Board to assist with funding of the Client-Attorney Assistance Program (CAAP); Commissioner Alcott made a motion for Executive Director Joe Conte and Public and Legal Services Director Richard Spinello to draft a letter to the Disciplinary Board and report to the Board at the May meeting, and the motion passed;
- J. Discussed a proposal for the Senior Lawyers Division to audit CLE seminars for a minimal fee of \$10-15 with the option of purchasing course materials separately; the Board requested staff to research further and provide a recommendation at the May meeting; and
- K. Staff was requested to research rental rates at other facilities in Albuquerque and recommended an increase in the State Bar Center classroom rentals for non-bar related entities; Commissioner Briones made a motion to approve the increase in rental rates and the motion passed.

### **3. Acceptance of Financials**

Commissioner Alcott made a motion to accept the pre-audit December 2003 Financials and the motion passed.

### **4. Casemaker Report**

President O'Brien reported that the Casemaker Committee met and requested the Court's opinion of the Casemaker product and the Court sent a Memo regarding its concerns. The committee teleconferenced with Kathleen Jo Gibson and she reported that the Compilation Commission is concerned about the ability of Casemaker to provide current and accurate information to members. She informed the committee that the Compilation Commission's current vendor, American Legal Publishing, which provides copyrighted annotations to statutes, updates to court rules, forms, jury instructions, etc., has breached its contract, and the Court is currently negotiating with other vendors, including Lexis and West, to provide this service. She also informed the committee that the main focus of the Compilation Commission is to provide accurate and current information at the best rate. She requested the Board to table its decision to the May meeting. Commissioner Briones made a motion to table the decision on Casemaker to the May meeting and the motion passed.

### **5. Update on Electronic Distribution of the Bar Bulletin**

Executive Director Joe Conte reported that the Supreme Court approved the Bar's request for electronic distribution of the *Bar Bulletin*. Staff is currently testing the document, which is quite large and probably won't work well with a dial-up account. A notice to the membership informing them of this option will be published in the *Bar Bulletin*, and the launch date is scheduled for April 1<sup>st</sup>.

### **6. President's Report**

President O'Brien reported on the following:

#### **A. Bar Commissioner District Lists Regarding Target Marketing**

Pursuant to a request for assistance with target marketing at the December meeting, membership lists were distributed for commissioners to identify practice areas.

## **B. NCBP Midyear Meeting**

He, President-elect Vigil, Executive Director Joe Conte and Director of Administration, Madonna Vandeventer, attended the National Conference of Bar Presidents (NCBP) in San Antonio last month. He noted that State Bars are spending a lot of money to promote professionalism; the Nevada Bar spent \$250,000 on an extensive PR campaign and the Wisconsin Bar spent \$50,000 on a new logo.

## **C. Communications Committee Meeting**

The Bar's Communications Committee met on February 24<sup>th</sup> and discussed branding and the need to identify everything the Bar sends out as being from the State Bar. The committee reviewed a few sample logos and the membership survey and will develop ways in which the Bar can communicate better with its members. He noted that the committee is a diverse group comprised of members of the Board and the Committee on Diversity.

## **D. Commission on Professionalism Meeting**

He reported that he co-chaired his first meeting of the Commission on Professionalism on February 26<sup>th</sup>. Members debated whether it should be doing external or internal promotion and decided to hold a facilitation/strategic planning meeting on April 30<sup>th</sup> to determine its focus, develop short and long-term goals, and discuss altering the professionalism requirement to one hour and/or combine with ethics.

## **E. Other**

- Pursuant to a request from a member to publish the letter sent to those members who challenged the budget regarding a non-budgeted expenditure related to the union petition, he drafted a notice explaining the Board's position; the notice was published in the February 12<sup>th</sup> *Bar Bulletin*, and no responses to that notice have been received from members.
- He participated in the High School Mock Trial for the first time and noted that it's a great program and well worth the State Bar's cosponsorship.

## **7. Executive Director's Report**

Executive Director Joe Conte's written report and the State Bar Newsletter were included in the materials. Mr. Conte reported that the Conference on Commonality was well received and opened up dialogue among minority bars. A follow-up meeting is being scheduled to develop an action plan from the conference. He also reported that he and Kris Becker have been working with Rick Kraft on plans for the Leadership Training Institute. He will be taking the professionalism program to the Chaves County Bar in Roswell on March 29<sup>th</sup> and is planning to meet with other local bars and offer the professionalism program.

## **8. Membership Survey Report**

Brian Sanderoff of Research and Polling reported on plans for the 2004 membership survey, which was distributed at the Board meeting. He stated that the survey captures all of the issues that the Bar feels are important, and the ultimate goal is to obtain results that are statistically valid. Reminders will be sent prior to and after the survey has been mailed, and they are hoping for a response rate of 20 percent. The final survey will be mailed to all active members the week of March 22<sup>nd</sup>, and the results will be made available at the May meeting.

## 9. Bylaws/Policies Committee Report

Chair Chuck Vigil reported on the February 20<sup>th</sup> meeting and request approval of the following bylaw and policy amendments:

- A. **Proposed Revisions to Children's Law Section Bylaws** – the Section requested revisions to its Bylaws to comply with the way in which it is currently operating--for the section to not be required to cosponsor CLE programs with the Bar's CLE Department. The Bylaws/Policies Committee noted that the proposed revision deviates from other section bylaws, however the committee did not oppose the amendment. Membership and Communications Director Christine Morganti reported that the Indian Law Section met prior to the Board meeting and requested the same revision to its Bylaws. Executive Director Joe Conte stated that the Bar cannot force sections to cosponsor with CLE; staff needs to convince the sections that CLE can offer programs to them at a reasonable cost. Chair Vigil recommended that the Executive Director work with the sections and decide on these requests on a case-by-case basis. Commissioner Briones made a motion to not approve the requested revisions to the Children's and Indian Law Sections' Bylaws and the motion passed.
- B. **Grievance Policy** – Bylaws/Policies Committee member David Berlin drafted a new proposed policy, which addresses complaints involving the Executive Director and replaces the current Grievance Policy. Since this is a staff policy and included in the Employee Handbook, it was referred to the Personnel Committee which met prior to the meeting and made several revisions. Commissioner Briones made a motion to approve the new policy as amended by the Personnel Committee and requested an additional amendment for staff to be able to file their complaint with either the Executive Director or the Human Resources Director, and the motion passed.
- C. **PTO (Paid Time Off)** – the Bylaws/Policies Committee recommended approval of the new proposed policy, which combines vacation and sick leave and replaces the current Leave Policy. Since this is a staff policy and is included in the Employee Handbook, it was also referred to the Personnel Committee, which recommended approving and making effective April 1<sup>st</sup>. Commissioner Castille made a motion to approve the new policy as presented effective April 1<sup>st</sup> and the motion passed.
- D. **State Bar/BBC Policies** – the Bylaws/Policies Committee revised and compiled all of the State Bar/BBC policies into a handbook, which will be updated as new policies are approved by the Board.
- E. **Executive Sessions of the Board** – this was a policy, but the Bylaws/Policies Committee recommended incorporating into the Bylaws under Article IV, Section 4.5d. Thirty days' notice was provided and approval of the new Bylaw will be on the May meeting agenda.

## 10. Approval of Client Protection Fund Recommendation

Public and Legal Services Director Richard Spinello reported on the Client Relations Committee's recommendation regarding a claim made to the Client Protection Fund. He stated that since the claim was against someone who was not an attorney, the committee recommended not paying the claim pursuant to the rules of the Client Protection Fund. He reported that the case will be followed up under the unauthorized practice of law, which is part of CAAP. Commissioner Behles made a motion to approve the committee's recommendation and the motion passed.

**11. Approval of New Committee on Human Rights**

The Board considered the ABA's request to establish a committee dealing with human rights and determined not to take any action at this time.

**12. Section Legislative Advocacy Compliance Report**

Membership and Communications Director Christine Morganti reported that the Children's Law and Taxation Sections complied with proper legislative advocacy procedure, and that the Children's Law Section tabled its request due to lack of a sponsor.

**13. Division Reports**

**A. Young Lawyers Division**

Young Lawyers Division Chair Mo Chavez reported that the YLD Board held its first meeting the week prior to the BBC meeting and had almost 100 percent attendance; he also reported that he learned at the ABA Conference in San Antonio that New Mexico made the short list for the ABA 2006 Spring Conference in Albuquerque or Santa Fe. The YLD has developed a handbook for new lawyers to educate them on the Bar, the Court system, etc., and is also working with CLE Director Rob Koonce in planning for the Bridge the Gap Conference.

**B. Senior Lawyers Division**

Senior Lawyers Division Delegate Dan Behles reported that the Board met last month and elected its new officers as follows: Tim Padilla, Chair; Turner Branch, Chair-elect; Barbara Everage, Vice Chair; and Brad Zeikus, Secretary-Treasurer. He also reported that the SLD is continuing to do the KOB call-in program; last week was sweeps week and the volunteers had double shifts. The SLD Board discussed auditing CLEs and plans for a stand-alone CLE program on elderly law during the year.

**C. Paralegal Division**

Paralegal Division Liaison Kay Homan reported that the Division is pleased to hear that the new rules will be published the following week in the *Bar Bulletin*. She also reported that 30 percent of paralegals in the state have completed the Compensation & Benefits Survey, and a report should be compiled by the end of the month.

**14. FYI**

A copy of the 2004 Dues/Licensing Form containing a member's comments was included in the materials.

**15. New Business**

- A. The Board went into Executive Session to discuss litigation with former CLE Director Roy Reynolds. Following the Executive Session, Commissioner Briones made a motion to appoint a Settlement Committee to work towards a settlement of up to \$10,000 (the Bar's insurance deductible) and the motion passed. Commissioners Behles, Berlin, Vigil Shanor, Pitts and President O'Brien volunteered to serve on the Settlement Committee.
- B. Sarah Singleton, Chair of the Legal Services & Programs Committee, handed out the committee's 2003 annual report and reported on the committee's activities. She also presented the committee's new pro hac vice Rule 15-305 NMRA "Practice by Nonadmitted Lawyers Before State Courts" and related amendments

to existing Rules 1-089.1 and 5-108 NMRA “Nonadmitted and Nonresident Counsel,” and Rule 12-302 NMRA “Appearance, Withdrawal or Substitution of Attorneys” for the Supreme Court’s approval. She explained that the proposed rule will require a \$250 fee for out-of state attorneys seeking pro hac vice admission to be paid to the State Bar, which shall collect an administrative fee of no more than four percent, or \$10. The balance of the funds will be held in a special fund and distributed annually to nonprofit organizations to support the delivery of civil legal services to the poor in New Mexico. For each proceeding in which the nonadmitted attorney intends to appear, the attorney shall file a registration certificate with the State Bar, which shall be monitored and enforced by judges. The committee anticipates revenues of \$100,000 for New Mexico legal services. Commissioner Vigil made a motion to approve the new rule and rule amendments and for the committee to present them to the Supreme Court for approval and the motion passed. Commissioner Vigil suggested that a representative of the Board or Executive Director Joe Conte present the rules with the committee to the Court.

There being no further business, the meeting was adjourned.

**BOARD OF BAR COMMISSIONERS**  
**May 7, 2004, MEETING MINUTES**  
**Bar Center, Albuquerque, NM**

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| <b>MEMBERS PRESENT:</b> | Henry A. Alaniz<br>Colin C. Alcott<br>Daniel J. Behles<br>Morris J. Chavez<br>Virginia R. Dugan<br>Jane Shuler Gray<br>Kay L. Homan<br>Dennis E. Jontz | Damon P. Martinez<br>Daniel J. O'Brien<br>Craig A. Orraj<br>Donald C. Schutte<br>Stephen S. Shanor<br>Charles J. Vigil<br>Elizabeth E. Whitefield |
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| <b>MEMBERS ABSENT:</b> | B. Paul Briones<br>David M. Berlin<br>Robert D. Castille<br>James H. Dawdy, Jr. | Monica M. Ontiveros<br>Jessica A. Perez<br>Albert L. Pitts |
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| <b>OTHERS PRESENT:</b> | Kris Becker<br>Greg Cashman<br>Joe Conte<br>Hank Kelly<br>Rob Koonce<br>Christine Morganti | Anita Otero<br>Sarah Singleton<br>Richard Spinello<br>Madonna Vandeventer<br>Pat Wilkins |
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**1. Approval of March 5, 2004 Meeting Minutes**

Commissioner Dugan made a motion to approve the March 5, 2004 meeting minutes as submitted; the motion was seconded and it passed.

**2. Finance Committee Report**

The Finance Committee met prior to the Board meeting and Secretary-Treasurer Jontz reported on the Committee's discussion and recommendations as follows:

- A.** Recommended approving dues fee waivers for those who met the criteria and complied with the requirements. Commissioner Dugan made a motion to approve the dues fee waivers; the motion was seconded and it passed;
- B.** Accepted the March 2004 Financials and Executive Summary;
- C.** Reported that the RFP was sent to four auditing firms; proposals are due July 30<sup>th</sup> and the RFP committee will meet to conduct interviews and make a recommendation to the Board at the September 17<sup>th</sup> meeting;
- D.** Determined that the Bar cannot collect surcharges from members who use credit cards to pay their bar dues;
- E.** Recommended approval of a non-budgeted item in the amount of \$250 to fund a dinner of the National Conference of Bar Presidents to be held in Albuquerque in October; the Board and voluntary bar leaders will be invited to attend; Commissioner Whitefield made a motion to approve the expenditure and the motion passed;
- F.** Discussed the outstanding Bar Center pledges which the auditors wrote off in 2003 and which staff have made several attempts to collect, to no avail;
- G.** Reviewed the accounts receivable aging report as well as the Executive Director's travel reimbursements and credit card file; and
- H.** Recommended approval of a non-budgeted item in the amount of \$2,000 for a Las Cruces State Bar satellite office pilot project through the end of the fiscal

year; Commissioner Martinez arranged with Chief Judge Robert Robles to have an office made available to the State Bar free of charge at the Third Judicial District Court for a one-year trial period. The office will provide member and public services and a variety of live and video replay CLE seminars. Commissioner Martinez reported that he spoke with the Dean Scarnecchia about the satellite office and the law school is interested in assisting. Commissioner Martinez will provide an update on the effectiveness of the satellite office at each Board meeting. Commissioner Orraj made a motion to approve the expenditure; the motion was seconded and it passed.

### **3. Acceptance of Financials**

Commissioner Alcott made a motion to accept the March 2004 Financials; the motion was seconded and it passed.

### **4. Acceptance of 2003 Audit and Management Letter**

Greg Cashman and Pat Wilkins with Meyners + Co., the Bar's auditor, met with the Finance Committee prior to the Board meeting and provided a brief report to the full Board. Mr. Cashman reported that the State Bar is in a strong financial position with a deficit of \$26,000, which is very good for a non-profit organization. The Finance Committee requested that they put together a sample of other like organizations to determine the Bar's standing among them. He also reported on the minor comments in the management letter involving CLE issues with video rentals and tracking registration in the database, and reconciliation of State Bar inventory.

Commissioner Dugan made a motion to accept the 2003 Audit and Management Letter; the motion was seconded and it passed.

### **5. Casemaker Update**

Chief Justice Petra Jimenez Maes sent a letter as President of the Compilation Commission requesting the Board to postpone its decision on the Casemaker online legal research product indefinitely or at least for a period of one year in order to allow for the restructuring of the Compilation Commission. With the termination of the agreement with American Legal Publishing, the Commission is undertaking the responsibility of being the State's official publisher and will be competing with private publishers to provide legal research to state agencies and members of the bar. The Commission feels that this first year is critical and requested the Bar's support in delaying its decision on Casemaker. Commissioners discussed the pros and cons of delaying the decision for one year and the fact that Casemaker will take nine months to develop and put in place, which would mean actually waiting almost two years from advising Casemaker to proceed. Commissioners felt that rather than postponing the decision for one year, it could monitor the Compilation Commission's progress and obtain an update at each Board meeting. Commissioner Alcott made a motion to table the decision on Casemaker to the July meeting and invite a representative from the Commission to attend and discuss its concerns with the Board; the motion was seconded and it passed.

### **6. Executive Session**

Pursuant to State Bar Bylaws, Article IV, Section 4.5(d), the Board went into Executive Session to discuss litigation and the Executive Director's one-year review.

### **7. Executive Session Report**

In open session, Commissioner Alcott reported that the Executive Director's performance evaluation was conducted in Executive Session. He reported that the Board is pleased with Executive Director Joe Conte's performance and that he would receive a bonus.

## **8. President's Report**

President O'Brien reported on the following:

### **A. Western States Bar Conference**

Commissioner Vigil, Executive Director Joe Conte and he attended the Western States Bar Conference in Scottsdale, March 17-20. Client Protection Funds were among the topics discussed, and he noted that the State Bar of Nevada will be holding its 2005 Annual Convention in Santa Fe.

### **B. Bench & Bar Relations Committee Meeting**

He attended the April 14<sup>th</sup> Bench & Bar Relations Committee meeting and noted that the CLE format for the Bench & Bar Conference scheduled for November 4-6<sup>th</sup> will be a follow-up to the 2003 Annual Convention with open dialogue between judges and lawyers. The Bar's annual service awards will be presented at the Friday and Saturday lunches.

### **C. Commission on Professionalism Facilitation/Strategic Planning Meeting**

He attended the April 30<sup>th</sup> Commission on Professionalism Facilitation/Strategic Planning meeting facilitated by Dick Gerding and Bob Sabin and reported that the Commission recommended requesting the Court to reduce the two hour professionalism requirement to one hour and to remove the review requirement for professionalism programs of accredited providers. He also reported that there was no decision reached on whether the Commission's focus should be on the public or the members. Executive Director Joe Conte noted that the MCLE Board will also be recommending a rule change from a 50-hour credit to a 60-hour credit, which will also reduce the number of credits required from 15 to 12.

### **D. Reappointment of Sarah Singleton to Civil Legal Services Commission**

Sarah Singleton was reappointed to the Civil Legal Services Commission for a three-year term.

### **E. Long Range Planning Retreat Discussion**

Commissioners were requested to review the Bar's mission and goals prior to the Long Range Planning Retreat scheduled for July 23-24 in Los Alamos.

### **F. Other**

He addressed the new admittees at the swearing-in ceremony in Santa Fe on April 26<sup>th</sup>.

**Action Needed: None**

## **9. Executive Director's Report**

Executive Director Joe Conte's report and the State Bar Newsletter were included in the materials. He reported that the Leadership Training Institute, chaired by Rick Kraft again this year, was being advertised in this week's *Bar Bulletin*, e-blasts were being sent out, and the brochure is on the Bar's web site. The tuition is \$300 and the class size is limited to 25 students. He also reported on the Toastmasters group that meets at the Bar every Monday, which teaches speaking and presentation skills, and he encouraged participation.

## **10. Appointment to Judicial Standards Commission**

The following members expressed an interest in being appointed to the Judicial Standards Commission: Brent Bailey, Kathleen M. Brandt, Judith D. Cooper, Paula Forney, Harvey Fruman, Michael T. Murphy, Mike G. Paulowsky, David K. Thomson, and Bob F. Turner. Following a vote by secret ballot, Bob F. Turner was appointed to the Judicial Standards Commission for a four-year term.

## **11. Appointment to ABA House of Delegates**

The Honorable Alan C. Torgerson submitted a letter and resume for consideration to be appointed to the ABA House of Delegates. Commissioner Vigil made a motion to appoint Judge Torgerson to the ABA House of Delegates for a two-year term and the motion passed.

## **12. Request from ABA Standing Committee on Client Protection**

A report and recommendation from the ABA Standing Committee on Client Protection is being submitted by the ABA House of Delegates at the ABA Annual Meeting in August urging the House to adopt the proposed ABA Model Court Rule on Insurance Disclosure. Hank Kelly, Chair of the ABA Standing Committee on Client Protection and a member of the State Bar's Lawyers Professional Liability Committee, reported on the ABA House of Delegate's request to cosponsor and support its recommendation for mandatory disclosure of malpractice liability insurance and requested the Board's approval. He noted the correlation between lawyers' professional liability insurance and client protection in that uninsured lawyers have a higher incidence of client protection claims. Mr. Kelly stated that 10 jurisdictions have addressed the issue of insurance disclosure as follows: five require disclosure on the annual registration statement, four require disclosure to clients, and one requires mandatory malpractice insurance to practice law. He reported that the nature of insurance is misleading to clients as it is designed to protect lawyers, not the public, although the benefits of disclosure outweigh the negative aspects. However, there needs to be a mechanism to obtain the information. The ABA Model Rule, which he participated in drafting, would require a lawyer to inform the highest court in the jurisdiction, or designated entity, whether insurance is maintained, and the court would make this information available to the public however it chooses. He noted that although the proposed Model Court Rule would not be binding on New Mexico, it would be helpful in requesting support and approval from the New Mexico Supreme Court. President O'Brien expressed concern that the rule discriminates against members who may not be able to afford insurance. Commissioner Behles stated that obtaining malpractice insurance is just the price of practicing law. Commissioner Orraj clarified that the proposed rule will require lawyers to disclose, not obtain insurance. Following discussion of the pros and cons of the proposed rule, Commissioner Behles made a motion to approve the request to support and cosponsor the ABA Model Court Rule on Insurance Disclosure; the motion was seconded and it passed with one no vote.

## **13. Bylaws/Policies Committee Report**

Bylaws/Policies Committee Chair Chuck Vigil requested approval of the following:

- A. Executive Sessions of the Board** – the Bylaws/Policies Committee recommended changing from a policy and incorporating into the Bylaws under Article IV, Section 4.5d. Thirty days' notice was provided at the March meeting. Commissioner Alaniz made a motion to approve the new article to the Bylaws; the motion was seconded and it passed.
- B. Contracts Involving Employees or Board Members Policy** – this policy was revised to address conflicts of interest. The Bylaws/Policies Committee approved the revised policy and recommended approval by the Board. Commissioner Alaniz made a motion to approve the revised policy; the motion was seconded and it passed.

#### **14. CLE Oversight Committee Report**

Chair Colin Alcott reported that the committee was unable to meet prior to the Board meeting, but that it will continue its oversight of CLE financials and programs. CLE Director Rob Koonce discussed a proposal pursuant to the Senior Lawyers Division's request to audit CLEs for a minimal fee. The proposal would allow senior lawyers to audit seminars for a fee of \$10 without materials or \$20 with materials. Commissioner Shanor suggested basing the price with materials on the Bar's cost of materials for each seminar. Commissioners also discussed whether the fee would cover meals and whether MCLE credit should be allowed, if requested. Following discussion, staff was directed to draft a policy for the Board's approval at the July meeting.

#### **15. Approval of Client Protection Fund Recommendation**

Public and Legal Services Director Richard Spinello reported on the Client Relations Committee's recommendations regarding two claims made to the Client Protection Fund. Commissioner Whitefield made a motion to approve the recommendations regarding both claims; the motion was seconded and it passed.

#### **16. Discussion Regarding Four Corners Reciprocity Issue**

Commissioner Jontz inquired as to the status of general reciprocity and the four-corners proposal. Commissioner Alcott provided a recap on the four corners proposal. President O'Brien stated that the report and recommendations regarding reciprocity developed by the Bar's Multijurisdictional Task Force were sent to the Supreme Court in 2002, and that the Court referred some of the recommendations to the Board of Bar Examiners and Disciplinary Board for their consideration. Following discussion, an ad hoc committee chaired by Dennis Jontz was appointed to follow-up on the recommendations and pursue general reciprocity. Commissioners Shanor, Alcott, Whitefield and Alaniz volunteered to serve on the committee. The Board of Bar Examiners and Disciplinary Board will be contacted for input and participation on the committee.

#### **17. Casino Advertising Update**

Membership and Communications Director Christine Morganti reported that input was obtained from other state bars, the Bar's Lawyers Assistance Committee and the Board of Editors regarding whether to accept casino advertising in the *Bar Bulletin*. Although there are no standards in the current Editorial Policy, the Board of Editors specifically recommended to not accept ads from casinos for gambling, but that ads for entertainment-type activities, such as golf and resorts, could be accepted. Following discussion, the Board decided to defer the decision of whether to accept ads for casino advertising to staff, and questionable ads would be referred to the Board of Editors on a case-by-case basis.

#### **18. Formation of Intellectual Property Section**

Commissioner Jontz reported that there is interest in an Intellectual Property Section and that nine members are willing to serve on the section's board of directors. Pursuant to State Bar Bylaws, Article IX, Section 9.1, a petition signed by a minimum of 50 members and draft Bylaws are required prior to establishing a section. Commissioner Vigil made a motion to approve the formation of an Intellectual Property Section contingent upon obtaining 50 signatures and approval of the Section Bylaws; the motion was seconded and it passed.

#### **19. Abolishment of International and Immigration Law Section**

A memo from President O'Brien to the 19 paid members of the International and Immigration Section requesting volunteers to serve on a board resulted in only two positive responses. No board election has been held since 1998 and the section has been inactive. Pursuant to State Bar Bylaws, Article IX, Section 9.4, if the Board finds a section to be inactive sixty days after

January 1, the section may be abolished. Commissioner Alcott made a motion to abolish the section effective December 31, 2004, and to send a notification letter to the section regarding the abolishment contingent upon its being able to form a board. The motion was seconded and it passed.

## **20. Division Reports**

### **A. Young Lawyers Division**

Young Lawyers Division Chair Mo Chavez reported that four board members attended the ABA YLD Spring Conference in Memphis for which two received an ABA scholarship. He reported that the national conference will not be held in New Mexico, but he did not know the reason. Roxanna Chacon was appointed to a position with the ABA affiliate assistance program; she'll visit with other YLD boards across the country and her expenses will be paid by the ABA. He also reported that for the next two years, New Mexico will get a District 23 ABA representative to represent Arizona and New Mexico at the national ABA level; a notice will be published in the *Bar Bulletin* requesting nominations.

### **B. Senior Lawyers Division**

Elizabeth Whitefield reported in the absence of Senior Lawyers Division Chair Dan Behles that the Division is continuing its support and assistance with the KOB-TV Call-in Program and the program is going well.

### **C. Paralegal Division**

Paralegal Division Chair Kay Homan reported that the Division received a good response rate of 30 percent to the Compensation and Benefits Survey, which was mailed to all paralegals in the state, and that the results and report are available on the Division's Web site. She thanked the Board for its support and assistance with the survey. She also reported that the ABA Standing Committee on Paralegals is using the Division as a model for the creation of divisions of other state bars. Kay's article entitled "Paralegal Division of the State Bar of New Mexico: a Case Study in the Pursuit of Professionalism" was published in the May issue of the ABA Standing Committee on Paralegals publication *UPdate*, which can be accessed on the ABA website.

## **21. 2004 Midyear Meeting of the ABA and Meeting of the House of Delegates Report**

A report from ABA Delegate Sarah Singleton on the Midyear Meeting and Meeting of the House of Delegates was included in the materials.

## **22. New Business**

- A.** At the request of the Administrative Office of the Courts, the Board will send a letter to the Supreme Court regarding the Bar's Death Penalty Task Force Final Report explaining that the Board's acceptance of the report did not constitute an endorsement of the specific recommendations. With the completion of the final report and dissolution of the task force, individual members of the task force were encouraged to pursue the recommendations on their own.
- B.** Pursuant to the Board's approval of the pro hac vice rule requiring attorneys not licensed in New Mexico to pay a fee of \$250 to assist with funding for legal services providers Court's request, the Supreme Court requested that a mechanism be established for disbursement of those funds. The Legal Services and Programs Committee will draft guidelines for Executive Director Joe Conte's approval.

- C.** Legal Services and Programs Committee Co-chair Sarah Singleton reported that she was invited to attend the Access to Justice (ATJ) Chairs Meeting held during the ABA/NLADA Equal Justice Conference. Chairs of Access to Justice commissions, bar committees with an ATJ charge, bar presidents and leaders, state Supreme Court justices and judges met to share experiences, discuss concerns, and learn from experts in the field. Currently, 16 states have ATJ Commissions dedicated to expanding and improving civil legal assistance in the state, composed of appointed representatives of the bar, the courts, legal services providers and other key constituencies; 24 states have a bar committee that performs a similar function. The Legal Services and Programs Committee will draft an Order creating and defining the mission of the ATJ Commission for the Supreme Court's approval, and upon approval, the State Bar will have three appointments to make to the Commission.
  
- D.** Membership and Communications Director Christine Morganti reported that the chair of the Membership Services Committee had resigned and she requested volunteers to chair the committee. Commissioner Alcott proposed dissolving the committee and having staff pursue contracts and bring to the Board for approval. Christine Morganti will contact the committee members again to try to find a chair for the committee. Following discussion, it was decided that in the absence of a chair, the Board's Executive Committee will review all of the pending contracts and issues of the Membership Services Committee for the Board's approval at the July meeting.

**BOARD OF BAR COMMISSIONERS**  
**July 23, 2004, MEETING MINUTES**  
**Best Western Hilltop House, Los Alamos, NM**

**MEMBERS PRESENT:** Henry A. Alaniz  
Colin C. Alcott  
Daniel J. Behles  
David M. Berlin  
B. Paul Briones  
Robert D. Castille  
Morris J. Chavez  
James H. Dawdy, Jr.  
Virginia R. Dugan  
Kay L. Homan

Dennis E. Jontz  
Damon P. Martinez  
Daniel J. O'Brien  
Monica M. Ontiveros  
Craig A. Orraj  
Jessica A. Perez  
Albert L. Pitts  
Donald C. Schutte  
Stephen S. Shanor  
Charles J. Vigil

**MEMBERS ABSENT:** Jane Shuler Gray  
Elizabeth E. Whitefield

**OTHERS PRESENT:** Kris Becker  
Joe Conte  
Rob Koonce  
Christine Morganti

Anita Otero  
Richard Spinello  
Madonna Vandeventer

**1. Approval of May 7, 2004 Meeting Minutes**

Commissioner Alaniz made a motion to approve the May 7, 2004 meeting minutes as submitted; the motion was seconded and it passed.

**2. Finance Committee Report**

The Finance Committee met prior to the Board meeting and Secretary-Treasurer Jontz reported on the Committee's discussion and recommendations as follows:

- A.** Accepted the May 2004 Financials and Executive Summaries;
- B.** Reviewed the accounts receivable aging report and reported that the account manager is still trying to collect on some of the open accounts;
- C.** Reported that the Audit RFP was sent to four auditing firms; proposals are due July 30<sup>th</sup> and interviews will be conducted by the RFP Committee prior to the September 17<sup>th</sup> Board meeting, and an auditor will be selected at that meeting;
- D.** Discussed the Bar's liability for staff bonuses being incorrectly reported since 2000; the Finance Committee will meet with the Bar's auditor, Meyners + Co., to determine the cost for the additional taxes and penalties and will report to the Board at the September meeting;
- E.** Recommended approval of a non-budgeted item in the maximum amount of \$1,000 for a representative to attend the swearing-in ceremony for Alan Varela as president of the Hispanic National Bar Association in New York; Commissioner Vigil made a motion to approve the expenditure; the motion was seconded and it passed; and
- F.** Reviewed the Executive Director's travel reimbursements and credit card file.

**3. Acceptance of Financials**

Commissioner Alaniz made a motion to accept the May 2004 Financials; the motion was seconded and it passed.

#### **4. Casemaker Update**

At the May meeting, the Board decided to invite a representative from the Compilation Commission to this meeting to discuss its concerns with Casemaker; however, no one was available to attend. Executive Director Joe Conte reported that the Compilation Commission feels that it can protect the integrity of the product better than Casemaker could and the Commission is concerned about reduced revenues. A meeting has been scheduled for August 14<sup>th</sup> with interested parties to discuss further. President O'Brien and Commissioners Shanor, Briones, Castille and Perez will also attend the meeting.

#### **5. President's Report**

President O'Brien reported on the following:

##### **A. Other State Bar Conventions**

He attended the Arizona, Nevada, Texas and Utah State Bar Conventions and found that all of those bars have a good relationship with the courts and that camaraderie and fellowship was evident in both the CLE programming and the social events. He invited Chief Justice Maes to the Oklahoma State Bar Convention in November. He noted that Nevada will be holding its Annual Convention in Santa Fe next year and that Governor Richardson has been invited to speak.

##### **B. Commission on Professionalism Facilitation/Strategic Planning Meeting Report**

The Commission forwarded its April 30<sup>th</sup> retreat report and recommendations to the Supreme Court and requested its consideration and approval of reducing the professionalism requirement from two hours to one hour and removing the approval requirement for professionalism programs of accredited providers. The MCLE Board is also recommending a rule change from a 50-minute hour to a 60-minute hour, which will reduce the number of credits required from 15 to 12.

##### **C. Discussion of Supreme Court Order Denying the Deunification Petition**

Pursuant to the Supreme Court Order, the Board was requested to confer with all voluntary bar associations in order to recommend a process by which the Court can consider useful, relevant, and meaningful information on the issues raised in the Petition. Following discussion, the Board decided to hold a meeting with the voluntary bars to discuss voluntary versus mandatory membership issues and concerns and how the State Bar and those organizations can more effectively work together to be more relevant to members.

##### **D. Common Cause Meeting Regarding Funding for Judicial Campaigns**

He, President-elect Vigil and Executive Director Joe Conte met with representatives of Common Cause regarding a voluntary system of public funding for partisan elections to the Supreme Court and Court of Appeals. The representatives understood that the Bar cannot advocate or providing funding for judicial campaigns, but it can assist with publicity. The support of individual attorneys will be important when the proposal is presented to the Legislature. The proposal will be presented and discussed with other state bars at the ABA Annual Meeting in Atlanta in August.

## **6. Executive Director's Report**

Executive Director Joe Conte's report and the State Bar Newsletter were included in the materials.

## **7. Personnel Committee Report**

Chair Bob Castille reported on the May 21<sup>st</sup> Personnel Committee meeting and outlined the revisions made to the Employee Handbook and requested the Board's approval. Commissioner Shanor made a motion to approve the revised Employee Handbook; the motion was seconded and it passed. Commissioner Vigil questioned the "Employment of Relative/ Cohabitant" policy and requested clarification in the definition of a relative pertaining to employment of a spouse. He stated that employers cannot discriminate, as there is no case law regarding spouses. The Personnel Committee was directed to review the policy to insure that it complies with the Legislative Human Rights Act and make any necessary amendments.

## **8. Appointments to New Mexico Commission on Access to Justice**

The following members expressed an interest in being appointed to the newly-created New Mexico Commission on Access to Justice: John Bigelow, Scott C. Cameron, Christine Chandler, Paula Forney, Michael Hart, Brad L. Hays, Andrew S. Montgomery, Thomas W. Olson, Melissa J. Reeves, Donavon A. Roberts, Richard B. Spinello, Thomas (Tomas) E. Tapia, and Mirna Torres. The Board discussed the candidates and the need to have geographical diversity represented on the Commission. Following a vote by secret ballot, Christine Chandler from Los Alamos, Michael Hart from Albuquerque, and Melissa Reeves from Las Cruces were appointed to the New Mexico Commission on Access to Justice.

## **9. CLE Oversight Committee Report**

Chair Colin Alcott reported on the July 1<sup>st</sup> CLE Oversight Committee meeting stating that revenues were at \$20,000 the end of May; he noted that at this time last year, CLE was under budget by \$140,000. CLE has increased its marketing and the committee is pleased with the programs that are planned. Additional programs are being added towards the end of the year in October, November and December. Pursuant to a request from the Senior Lawyers Division to audit CLE seminars, the committee requested the Board's approval of the following policy:

### **CLE Audit Policy**

Members of the Senior Lawyers Division of the State Bar may audit State Bar CLE courses at a cost of \$10, space permitting. Auditors should contact the CLE office in advance and notify staff of their intent to audit. "Walk-in" auditors will be permitted on a space available basis. Auditors will not receive course materials or MCLE credits for the \$10 fee. Course materials, breaks and lunch, if applicable, may be available at an additional cost of \$29. If an auditor chooses to receive MCLE credit for attending the course, the request and payment must be made to CLE staff on the day of the program.

The Board discussed whether to allow CLE seminar auditing for all members of the Bar or other divisions, such as the Young Lawyers Division, but decided to have a trial period with the senior lawyers and consider expanding to other members in the future. Commissioner Briones made a motion to approve the CLE Audit Policy for members of the Senior Lawyers Division; the motion was seconded and it passed.

## **10. Annual Convention Planning Committee Report**

Co-chairs Dan O'Brien and Chuck Vigil reported on the July 12<sup>th</sup> Annual Convention Planning Committee meeting. The committee decided to rename the 2005 convention the Annual Meeting, which is scheduled for September 15-17, 2005, in Ruidoso at the Convention Center. The

committee discussed doing basic procedural updates and encouraging sections and divisions to cosponsor seminars and hold their annual meetings in Ruidoso. Justice Sandra Day O'Connor is being invited as a keynote speaker. The committee discussed the fact that the Bar can no longer afford to offer a reduced \$50 registration fee. Costs will be carefully reviewed and the registration fee will be based accordingly in order to break even.

#### **11. Reciprocity Committee Report**

Chair Dennis Jontz reported on the July 20<sup>th</sup> Reciprocity Committee meeting, which included representatives from the Supreme Court, Board of Bar Examiners, Disciplinary Board and bar commissioners. The State Bar's Task Force on Multijurisdictional Practice presented a report and recommendations to the Supreme Court in 2002. The Supreme Court forwarded some of those recommendations to other entities for their input and received opposition. This committee's objective was to ascertain whether there is interest in pursuing reciprocity and make a recommendation to the Supreme Court. The Supreme Court representatives indicated that the Court would reconsider a proposed reciprocity rule drafted by the committee. The committee will review reciprocity rules and admission fees of other states and develop a rule for general reciprocity in New Mexico for the Supreme Court's consideration.

#### **12. Discussion Regarding Board of Bar Commissioners Composition**

This item was tabled to the September 17<sup>th</sup> meeting.

#### **13. Approval of Membership Services Contracts**

Membership and Communications Director Christine Morganti reported that she, Executive Director Joe Conte and Public and Legal Services Director Richard Spinello reviewed the Bar's existing membership services contracts and took appropriate action. Anita Letter is the new chair of the Membership Services Committee. The committee met and developed a standard RFP and decided to refer to future endorsed vendors as participants in the State Bar's Alliance Program. Ms. Morganti presented the committee's recommendations for the Board's approval of four new agreements with the following companies: Avis, New Mexico Health Insurance Alliance, Lawyers and Judges Publishing Company and Viking Office Products. Commissioner Dugan made a motion to approve the recommendations of the Membership Services Committee to enter into agreements with the four new companies for one year with an option to renew. The motion was seconded and it passed.

#### **14. Discussion of Discrepancy Between State Bar Bylaws and Supreme Court Rule 24-101 Regarding Criteria of YLD Membership**

Membership and Communications Director Christine Morganti reported that a discrepancy was discovered between Supreme Court Rule 24-101 and the State Bar Bylaws regarding membership qualifications for the Young Lawyers Division (YLD). According to the Bylaws, one of the criterion for membership is a maximum of five years in practice, and Supreme Court Rule 24-101 lists the maximum number of years in practice as three. Reverting to the three-year maximum would reduce the number of YLD members. Since the organization has been operating according to the five-year maximum for several years, the Board decided to send a letter to the Supreme Court requesting that the rule be revised.

#### **15. Approval of Client Protection Fund Recommendation**

Public and Legal Services Director Richard Spinello reported on the Client Attorney Assistance Program recommendation regarding a claim made to the Client Protection Fund. Commissioner Behles made a motion to approve the recommendation to pay the claim; the motion was seconded and it passed.

**16. Division Reports**

**A. Young Lawyers Division**

Young Lawyers Division Chair Mo Chavez reported that the Division allocated \$3,000 for the Leadership Training Institute to be used for scholarships and a dinner. The Division will have a strategic planning retreat during the Bench & Bar Conference and will revisit and reevaluate all of its programs at that time.

**B. Senior Lawyers Division**

Senior Lawyers Division Chair Dan Behles thanked the Board for approving the new CLE Audit Policy. He reported that the Division is planning a CLE seminar in September on aging issues and that the Division is continuing its support and staffing of the KOB-TV Call-in Program. He noted that over 200 calls are handled by the participants during the 2-1/2 hour program. The Division has also set up a chat room for State Bar members, not just senior lawyers, and one of the issues is Medicare rules and regulations.

**C. Paralegal Division**

Paralegal Division Chair Kay Homan reported that the Division is holding a long-range planning retreat in August and is planning a CLE seminar in September regarding the proper use of paralegals and the new rules. She presented revisions to the Division's Bylaws and requested the Board's approval. Commissioner Dugan made a motion to approve the revisions; the motion was seconded and it passed.

**17. New Business**

- A. Commissioner Briones mentioned that Haskell Rosebrough from Farmington had recently retired. The San Juan County Bar honored him and the Mayor of Farmington named July 20<sup>th</sup> "Haskell Rosebrough Day." Mr. Briones requested that the State Bar send a letter thanking him for his service to the bar.
- B. On behalf of the Center for Civic Values, Commissioner Berlin presented President O'Brien with a plaque in recognition of the Bar's support of the New Mexico High School Mock Trial Program.

\_\_\_\_\_  
Daniel J. O'Brien, President

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Joe Conte, Executive Director

Date: \_\_\_\_\_

**BOARD OF BAR COMMISSIONERS**  
**September 17, 2004, MEETING MINUTES**  
**Bar Center, Albuquerque, NM**

**MEMBERS PRESENT:**

|                    |                         |
|--------------------|-------------------------|
| Henry A. Alaniz    | Damon P. Martinez       |
| Daniel J. Behles   | Daniel J. O'Brien       |
| B. Paul Briones    | Monica M. Ontiveros     |
| Robert D. Castille | Craig A. Orraj          |
| Morris J. Chavez   | Jessica A. Perez        |
| Virginia R. Dugan  | Albert L. Pitts         |
| Jane Shuler Gray   | Stephen S. Shanor       |
| Kay L. Homan       | Charles J. Vigil        |
| Dennis E. Jontz    | Elizabeth E. Whitefield |

**MEMBERS ABSENT:**

Colin C. Alcott  
David M. Berlin  
James H. Dawdy, Jr.  
Donald C. Schutte

**OTHERS PRESENT:**

|                |                     |
|----------------|---------------------|
| Cynthia Aragon | Orlando Lucero      |
| Kris Becker    | Christine Morganti  |
| Joe Conte      | Anita Otero         |
| Mike Hall      | Richard Spinello    |
| Tonya Herring  | Madonna Vandeventer |
| Rob Koonce     |                     |

**1. Approval of July 23, 2004 Meeting Minutes**

Commissioner Dugan made a motion to approve the July 23, 2004 meeting minutes as submitted; the motion was seconded and it passed.

**2. Finance Committee Report**

The Finance Committee met prior to the Board meeting and Secretary-Treasurer Jontz reported on the Committee's discussion and recommendations as follows:

- A.** Accepted the July 2004 Financials and Executive Summaries;
- B.** Reviewed the accounts receivable aging report;
- C.** Reviewed the Executive Director's travel reimbursements and credit card file;
- D.** Approved revisions to the Accounts Receivable Policy; and
- E.** Reported on the Bar's liability for staff bonuses being incorrectly reported since 2000; the Bar's auditor, Meyners + Co., determined that the cost for the penalties and interest for both Federal and State will be a maximum of \$11,230.  
Commissioner Alaniz made a motion to appropriate up to a maximum of \$11,500 for penalties and interest for employees; the motion was seconded and it passed.

**3. Acceptance of Financials**

Commissioner Ontiveros made a motion to accept the July 2004 Financials; the motion was seconded and it passed.

**4. Approval of 2005 Budget Worksheet**

Secretary-Treasurer Dennis Jontz reported on the 2005 Budget Worksheet and requested the Board's approval of the following:

- A. The Finance Committee made a recommendation to not publish the 2005 Budget Disclosure document in the *Bar Bulletin*, which will result in a cost savings of approximately \$2,500. The Bar is required by *Popejoy and Keller* to make the document available to members, and a notice will be published in the *Bar Bulletin* stating that the document will be posted on the Bar's Web site and copies will be provided to members upon request. Commissioner Behles made a motion to approve the recommendation to not publish the 2005 Budget Disclosure document in the *Bar Bulletin* and to include an explanation of the cost savings in the notice to members; the motion was seconded and it passed with one vote in opposition;
- B. The Finance Committee made a recommendation to allocate \$50,000 for the Client Protection Fund in 2005 and to request the Supreme Court to allocate a \$15 assessment for the fund in 2006. If an assessment is granted, the Finance Committee recommended that the remainder in the fund from 2005 will be put into a designated fund for 2006. Commissioner Castille made a motion to approve the recommendation; the motion was seconded and it passed; and
- C. The Finance Committee made a recommendation to increase funding for the Lawyers Assistance Program to \$16,400 in 2005; the additional funding will cover an insurance policy which requires that the staff of the program be part-time employees of the State Bar. The Board requested staff to research other insurance policy options for the November 4<sup>th</sup> meeting. Commissioner Alaniz made a motion to approve the recommendation for the additional funding for the Lawyers Assistance Program; the motion was seconded and it passed.

Commissioner Vigil made a motion to approve the 2005 Budget Worksheet; the motion was seconded and it passed.

#### **5. Approval of Recommendation Regarding Bar's Auditor**

Secretary-Treasurer Dennis Jontz reported on the Finance Committee's interviews with three auditing firms (REDW, Atkinson & Co. and Meyners + Company) and recommendation of REDW for the Bar's new auditor, which will result in a savings to the Bar of approximately \$16,000. Commissioner Vigil made a motion to approve the recommendation to hire REDW; the motion was seconded and it passed.

#### **6. President's Report**

President O'Brien reported on the following:

##### **A. NCBP Annual Meeting**

He, President-elect Vigil and Executive Director Joe Conte attended the NCBP Annual Meeting in Atlanta last month and organized a dinner for the neighboring state bars of Arizona, Nevada, Texas and Utah; the dinner provided an opportunity to exchange information and establish a working relationship with those bars.

##### **B. Compilation Commission Meeting**

He, Commissioners Shanor and Perez and Executive Director Joe Conte attended a meeting on August 14<sup>th</sup> with the Compilation Commission and learned what the Commission is attempting to accomplish as the official publisher and its concerns with regard to competition with Casemaker. Following discussion, the Board decided to postpone a decision on Casemaker at this time and to send a letter to the Compilation Commission offering assistance with its undertaking.

**C. Commission on Professionalism and Subcommittee Meetings**

The Commission on Professionalism met on August 27<sup>th</sup> and discussed the membership survey and the negative comments received from members regarding the professionalism requirement. Pursuant to those comments, the Commission decided to send another letter with the comments to the Supreme Court to reaffirm its position and request that the professionalism requirement be reduced from two hours to one hour. The Commission also discussed the Creed of Professionalism, which was adopted as a standard in the Federal Courts, and decided to request the Supreme Court to adopt the Creed of Professionalism as a standard in all courts.

**D. Bench & Bar Relations Committee Meeting**

The Bench & Bar Relations Committee met on September 8<sup>th</sup> to finalize the program and speakers for the Bench & Bar Conference scheduled for November 5-6<sup>th</sup> at the Sheraton Old Town in Albuquerque. The Past Presidents' Dinner will be held November 4<sup>th</sup> following the Welcoming Reception in honor of Chief Justice Maes for her efforts with access to justice issues in New Mexico. There will be a dinner Friday night with a Battle of the Bands for entertainment. The annual awards will be presented during the Friday and Saturday luncheons.

**E. Update on Supreme Court's Request to Confer with Voluntary Bars**

Pursuant to the Supreme Court Order denying the deunification petition and requesting the Bar to confer with and obtain input from the voluntary bars, a letter was sent to all of the voluntary bars requesting input for the November 4<sup>th</sup> Board meeting.

**7. Request to MCLE Board for Funding**

Executive Director Joe Conte reported that at the last MCLE Board meeting, the Board discussed how to utilize the funds collected from sanctions imposed for late MCLE filings. Mr. Conte requested that the funds be utilized to assist with the Bar's programs, such as the Client Protection Fund and the Lawyers Assistance Committee. In order for the State Bar to utilize the MCLE sanction funds, a rule change would need to be implemented. Mr. Conte also proposed moving the administration for MCLE under the State Bar, as many state bars administer their state's MCLE programs. A rule change would also need to be implemented to move MCLE under the administration of the State Bar. The MCLE Board requested that a letter be sent requesting assistance with funding for specific, worthwhile programs of the Bar. Following discussion, Commissioner Behles made a motion to send a letter to the MCLE Board requesting assistance with funding for the Client Protection Fund and the Lawyers Assistance Committee and to draft a rule change for the Supreme Court's consideration which would enable the State Bar to utilize the MCLE sanction funds. Mr. Conte noted that the MCLE Board is scheduled to meet with the Supreme Court in October and will communicate the request at that time. Commissioner Briones made a motion for President O'Brien and Executive Director Joe Conte to also attend the meeting with the Court; the motion was seconded and it passed.

**8. Executive Director's Report**

Executive Director Joe Conte's Report, the State Bar July/August Newsletter and the Strategic Planning Recommendations from the Board's Retreat in July were included in the materials. The recommendations from the retreat will be incorporated into the Bar's Strategic Plan.

**9. New Mexico Sentencing Commission Report**

New Mexico Sentencing Commission Executive Director Michael Hall and Cynthia Aragon, the Bar's appointee to the Commission, presented a report on the activities of the Commission.

**10. Unauthorized Practice of Law Report**

Orlando Lucero, Chair of the Unauthorized Practice of Law (UPL) Subcommittee of the Client Relations Committee, provided a report on the subcommittee's review of UPL and needed changes to the statute and rules. He stated that the subcommittee is concerned about the Bar's ability to enforce unauthorized practice of law. The Bar has received a lot of complaints over the years, but it hasn't been effective in enforcement. The current Rules of Professional Conduct, which were revised in August of 2003, are an improvement with regard to UPL; however, the current statute is deficient and doesn't capture what constitutes UPL and the practice of law. The subcommittee is requesting the Board's approval to develop a better definition of UPL and a system for enforcement to incorporate into the statute. Commissioner Jontz made a motion directing the subcommittee to develop amendments to the statute for enforcement of UPL.

**11. Approval of Client Protection Fund Recommendation**

Client Attorney Assistance Program Manager Tonya Herring reported on and requested the Board's approval of a recommendation on a claim made to the Client Protection Fund. Following discussion, the Board denied the recommendation to pay the claim.

**12. Update on ABA Approval of House Resolution 108 Requiring Lawyers to Report Malpractice Insurance Status**

This item was tabled pursuant to President O'Brien's request that the Lawyers' Professional Liability Committee meet with the Client Relations Committee, the Solo & Small Firm Practitioners Section and the Law Office Management Committee to discuss the ABA Resolution and make a recommendation for the Board's consideration.

**13. Approval of Annual Awards Committee Recommendations**

Annual Awards Committee Chair Elizabeth Whitefield reported on the August 31<sup>st</sup> Annual Awards Committee meeting and presented the committee's recommendations for the 2004 Annual Awards as follows:

|  |  |
|--|--|
| Courageous Advocacy                                  | David Campbell                           |
| Distinguished Bar Service                            | Russell D. Mann (posthumously)           |
| Distinguished Bar Service – Non-Lawyer               | Michelle Giger                           |
| Outstanding Contribution                             | Leigh Anne Chavez                        |
|  | Rosemary Maestas-Swazo                   |
| Outstanding Contribution – Non-Lawyer                | Linda Stocky                             |
| Outstanding Contribution to People with Disabilities | Rita Nunez Neumann                       |
| Outstanding Judicial Service                         | Judge Grace B. Duran                     |
| Outstanding Local Bar                                | San Juan County Bar                      |
| Outstanding Program                                  | Lawyers Assistance Committee             |
| Outstanding Young Lawyer of the Year                 | Brian S. Colón                           |
| Pioneer  | Arturo L. Jaramillo                      |
| Professionalism                                      | Toby Grossman (posthumously)             |
|  | Joseph P. Paone (posthumously)           |
| Quality of Life – Lawyer                             | Wayne E. Bingham                         |
| Robert H. LaFollette Pro Bono                        | Law Firm of Sage and Burks               |
| Seth D. Montgomery Distinguished Judicial Service    | Judge Frank H. Allen, Jr. (posthumously) |

Commissioner Alaniz made a motion to approve the committee's recommendations for the 2004 Annual Awards; the motion was seconded and it passed. The awards will be presented at the Sheraton Old Town in Albuquerque during the Bench & Bar Conference luncheons on November 5 and 6.

The committee made the following recommendations for the 2005 Annual Awards:

- Add an Outstanding Section/Committee Award;
- Combine the Distinguished Bar Service–Non Lawyer with the Outstanding Contribution–Non Lawyer Awards into one award; and
- CLE is to present awards to recognize speakers at a reception or another event and also acknowledge them during seminars.

Commissioner Vigil made a motion to approve the committee's recommendations for 2005; the motion was seconded and it passed.

#### **14. Reciprocity Committee Report**

Reciprocity Committee Chair Dennis Jontz reported on the September 14<sup>th</sup> meeting at which the committee agreed to proceed with drafting a mirror reciprocity rule modeled after the ABA Model Rule. The committee anticipates that the rule will be finalized at its next meeting and presented to the Board for approval at the November meeting.

#### **15. Membership Services Update**

Membership and Communications Director Christine Morganti referred the Board to the article "Cautions for Association Product Endorsements" in *Association Management* magazine. She reported on the legal risks named in the article and the steps taken by the Membership Services Committee to reduce them, namely: 1) Protect intellectual property. The State Bar reviews and approves use of the logo for mailings and other promotional material; 2) Avoid activities or communications suggesting or requiring exclusive use. Vendors are no longer allowed exclusive endorsements. MBNA's contract is the only one that includes such language; they allow the State Bar to offer USNM Federal Credit Union financial services in general terms, but the credit union may not promote similar financial products; 3) Develop criteria to determine that applicants are deserving of endorsement. The committee developed a standard RFP that requires staff to research and provide several alternative providers; comparisons of products and services are kept on file; and 4) Assess tort liability. The committee developed a disclaimer that is added to each new agreement. Additionally, the words "endorsed" and "partner" were not used in naming the program. Companies having such an agreement with the Bar are called "Alliance Program Participants." Ms. Morganti also reported on a new business card program addendum to the current MBNA Agreement, which the Board approved.

#### **16. Nomination of 2005 Officers**

Craig A. Orraj was elected by acclamation to the office of Secretary-Treasurer; Dennis E. Jontz was elected by acclamation to the office of Vice President; and Virginia R. Dugan was elected by acclamation to the office of President-elect.

#### **17. Discussion Regarding the Alternative Methods of Dispute Resolution Committee**

Over the last several years, there has been discussion regarding making the Alternative Methods of Dispute Resolution Committee a section, since it functions more as a section than a committee. In 1998, the section voted unanimously to remain a committee, and the current interim chair of the committee wants it to remain a committee. However, certain activities, such as elections and lobbying, are easier for sections to undertake. President-elect Vigil, Mr. Conte and Ms. Morganti are scheduled to meet with the interim committee chair next month. The Board decided to table a decision on the committee until after that meeting.

**18. Discussion Regarding Board of Bar Commissioners Composition**

President O'Brien reported that members from Alamogordo have indicated that they would like a representative from Alamogordo on the Board. Alamogordo is in the Sixth Bar Commissioner District, which includes Chaves, Eddy, Lea, Lincoln and Otero counties. The local bar feels it would be better represented in the Seventh Bar Commissioner District, which includes Catron, Dona Ana, Grant, Hidalgo, Luna, Sierra, Socorro and Torrance counties. Commissioner Shanor made a motion to table a decision in order to have an opportunity to meet with local bar members to discuss the Board composition and Bar Commissioner Districts; the motion was seconded and it passed.

**19. Board of Bar Commissioners 2004 Election Schedule**

The 2004 Board Election Schedule follows:

|                    |  |
|--------------------|--|
| September 23       | Publish election notice in the <i>Bar Bulletin</i> |
| October 22         | Deadline for nomination petitions                  |
| November 4         | Publish candidates' bios in <i>Bar Bulletin</i>    |
| November 5         | Mail ballots to members of each contested district |
| November 30 (Noon) | Deadline for close of elections and count ballots  |

**20. Division Reports**

**A. Young Lawyers Division**

Young Lawyers Division Chair Mo Chavez reported that he and Erika Anderson presented a professionalism program at the law school to first-year students, which Dean Scarnecchia is planning to make an annual program and incorporate into the law school curriculum. He also reported that two New Mexico YLD members received ABA scholarships. The leadership of the National ABA YLD will hold a meeting in Santa Fe next year. Bridge the Gap will be held next month and he anticipates including a legal writing component in the program again this year.

**B. Senior Lawyers Division**

Senior Lawyers Division Delegate Dan Behles reported that the Division is fairly active. The nominating committee has been assembled and the elections will be held the same time as the sections. The Division cosponsored a CLE entitled "Life Matters, Life Concerns: Planning for the Inevitable," which received favorable evaluations. The Division is continuing its support for the KOB-TV Call-in handling more than 200 calls per call-in. The Division will hold their annual meeting and a reception at the Bench & Bar Conference on November 5<sup>th</sup>. He also noted that the Division is soliciting for more women senior lawyers on their Board.

**C. Paralegal Division**

Paralegal Division Liaison Kay Homan reported that their officer elections are moving forward; their educational brochures on the utilization of paralegals will be published soon. The Division is cosponsoring two CLE programs entitled: "Fundamentals of Water Law" and "The Changing Role of Paralegals" on October 23<sup>rd</sup>. She also reported that the Division is coordinating a team for the American Lung Association Asthma Walk next month, and their next Division meeting is scheduled for November 13<sup>th</sup> in Las Cruces.

**21. Report on 2004 Annual Meeting of the American Bar Association and Meeting of the House of Delegates**

Sarah Singleton, the State Bar's ABA Delegate, provided a written report on the ABA Annual Meeting, which was included in the materials.

**22. New Business**

Christine Morganti, Director of Membership and Communications, reported that the Taxation Section plans to take a position on proposed legislation at a hearing of the NM Taxation and Revenue Department on October 6.

**BOARD OF BAR COMMISSIONERS**  
**November 4, 2004, MEETING MINUTES**  
**Bar Center, Albuquerque, NM**

**MEMBERS PRESENT:**

|                    |                         |
|--------------------|-------------------------|
| Colin C. Alcott    | Daniel J. O'Brien       |
| Daniel J. Behles   | Monica M. Ontiveros     |
| David M. Berlin    | Craig A. Orraj          |
| B. Paul Briones    | Jessica A. Perez        |
| Robert D. Castille | Albert L. Pitts         |
| Morris J. Chavez   | Donald C. Schutte       |
| Jane Shuler Gray   | Stephen S. Shanor       |
| Kay L. Homan       | Charles J. Vigil        |
| Dennis E. Jontz    | Elizabeth E. Whitefield |
| Damon P. Martinez  |                         |

**MEMBERS ABSENT:**

Henry A. Alaniz  
James H. Dawdy, Jr.  
Virginia R. Dugan

**OTHERS PRESENT:**

|               |                     |
|---------------|---------------------|
| Kris Becker   | Christine Morganti  |
| Joe Conte     | Anita Otero         |
| Tonya Herring | Richard Spinello    |
| Rob Koonce    | Madonna Vandeventer |

Commissioner James H. Dawdy, Jr., from the Seventh Bar Commissioner District resigned from the Board and will be replaced by Richard M. Jacquez from Las Cruces.

**1. Approval of September 17, 2004 Meeting Minutes**

Commissioner Whitefield made a motion to approve the September 17, 2004 meeting minutes as submitted; the motion was seconded and it passed.

**2. Finance Committee Report**

The Finance Committee met prior to the Board meeting and Secretary-Treasurer Jontz reported on the Committee's discussion and recommendations as follows:

- A.** Accepted the September 2004 Financials and Executive Summary;
- B.** Reviewed the accounts receivable aging report as well as the executive director's travel reimbursements and credit card file;
- C.** Approved a new carrier (the Lujan Agency) for the Bar's D & O insurance policy in the amount of \$10,000 resulting in a savings to the Bar of \$6,000; and appointed a committee to meet with the Lawyers Assistance Committee regarding the employment relationship required under the new policy;
- D.** Approved increases of \$10-\$25 for the Bar Center meeting room rental rates; staff will develop a proposal for the larger meeting rooms and early week usage;
- E.** Received an estimated building appraisal value from Wells Fargo on the Bar Center, which is likely valued at between \$3 - \$3.6 million; the balance on the mortgage is approximately \$900,000;
- F.** Approved a bar dues waiver for 2004 and 2005 for a newly admitted military reservist called to active duty;
- G.** Approved the bar dues fee of \$215 for an affiliate membership; and
- H.** Approved the 2005 Dues and Licensing Form with revisions.

Commissioner Gray made a motion to approve the report; the motion was seconded and it passed.

### **3. Acceptance of Financials**

Commissioner Behles made a motion to accept the September 2004 Financials; the motion was seconded and it passed.

### **4. Approval of 2004 Dues and Licensing Form**

Madonna Vandeventer reported that a new dues waiver category was added this year for military reservists. The Committee on Delivery of Legal Services to People with Disabilities also requested that the sign language interpreter fund for pro bono attorneys be included again this year. Since not all of the voluntary bars requested to be included on the dues form, the Board requested that a disclaimer be added stating "If opted to be included on the form." Commissioner Shanor made a motion to approve the 2004 Dues and Licensing Form with the amendments; the motion was seconded and it passed.

### **5. President's Report**

President O'Brien reported on the following:

#### **A. Bench & Bar Conference**

He outlined the events for the conference, including the Welcoming Reception honoring Chief Justice Maes for her efforts with access to justice issues in New Mexico and the Past Presidents' Dinner with 14 past presidents attending. The annual awards were being presented during the Friday and Saturday luncheons and a Battle of the Bands was scheduled for Friday night. He also noted that there were 171 registrants, which set a record for attendance at a Bench & Bar Conference.

#### **B. ABA/NCBP Meeting/Dinner**

He hosted a dinner at his home for the ABA Standing Committee on Bar Activities and Services and the NCBP Executive Council during their meeting in Albuquerque last month.

#### **C. Voluntary Bar Input Regarding Deunification Petition**

Pursuant to the Supreme Court Order denying the deunification petition and requesting the Bar to confer with and obtain input from the voluntary bars, a letter was sent to all of the voluntary bars requesting input for the November 4<sup>th</sup> Board meeting. A couple of responses were received and were included in the materials. The responses will be sent to the Supreme Court with a letter regarding the Bar's compliance with the Order and informing the Court of the Bar's outreach efforts to the voluntary bars.

#### **D. Other**

The Executive Committee met on October 14 to discuss and finalize the letter that was sent to the MCLE Board regarding funding for State Bar programs and moving MCLE under the State Bar in order to free up the funds.

### **6. President-elect's Report**

President-elect Vigil reported on the following:

#### **A. 2005 Board of Bar Commissioners Meeting Schedule**

He presented the 2005 meeting schedule as follows: January 28, April 1, May 20 (Taos), July 15, September 15 (Ruidoso), October 28 and December 9.

**B. Update Regarding the Alternative Methods of Dispute Resolution Committee**

He, Executive Director Joe Conte and Membership and Communications Director Christine Morganti met with David Levin, the ADR Section Interim Chair, and discussed the benefits of the committee becoming a section. The committee's next meeting is scheduled for November 12<sup>th</sup> and President-elect Vigil will attend that meeting and report to the Board at the December meeting.

**7. Death Penalty Discussion**

President-elect Vigil reported that there had been a request that the State Bar revive the Task Force to Study the Administration of the Death Penalty in New Mexico. The Task Force presented its report and recommendations to the Board last year. The Board accepted the report, but did not establish a permanent committee to follow-up on the recommendations in the report. Commissioner Briones made a motion to convene a committee to follow-up on and determine how to implement the recommendations of the Task Force. Commissioner Schutte stated that he serves as the liaison on the Criminal Rules and Uniform Jury Instructions Committees and both of those committees have already reviewed the report and recommendations. He expressed concern that this committee could conflict with an already existing network of organizations or committees. Commissioner Alcott suggested appointing an internal Board committee instead of an external committee. Commissioner Briones withdrew his motion. Commissioner Alcott made a motion to appoint a balanced, internal Board committee to review the report and recommendations and discuss with the Task Force co-chairs and various committees and report to the Board. The motion was seconded and it passed with one no vote. President O'Brien, Commissioners Briones, Schutte, Shanor, Perez and Martinez volunteered to serve on the committee, and President-elect Vigil will chair the committee. President-elect Vigil will also invite a prosecutor, a defense attorney and a judge to serve on the committee.

**8. Executive Director's Report**

Executive Director Joe Conte's Report and the State Bar September/October Newsletter were included in the materials.

**9. Update Regarding Request to MCLE Board for Funding**

Executive Director Joe Conte reported that he, MCLE Chair Jan Gilman-Tepper, Bill Brancard and Court Regulated Programs Director Anita Otero met with the Supreme Court on October 20<sup>th</sup> to discuss reducing the professionalism requirement from two hours to one hour, changing from a 50-minute to a 60-minute credit hour and moving MCLE under the State Bar.

**10. Report on Supreme Court Meeting Regarding Professionalism/MCLE**

Executive Director Joe Conte reported that the Supreme Court requested the Board's input regarding a change to the professionalism requirement. Mr. Conte took a straw poll vote of the Board as to the following options. Of the 17 commissioners present, nine voted in favor of eliminating the professionalism requirement; two voted in favor of reducing the requirement from two hours to one hour; and six voted in favor of combining the requirement with ethics. A letter will be sent to the Supreme Court notifying it of the Board's position.

**11. Approval of Client Protection Fund Recommendation**

Client Attorney Assistance Program Manager Tonya Herring reported on and requested the Board's approval of a recommendation on a claim made to the Client Protection Fund. Commission Behles made a motion to accept the recommendation to pay the claim; the motion was seconded and it passed. Ms. Herring also presented a proposal from Stephen Bass to represent the Bar for a reduced contingency fee in a collection action against an attorney to

recoup funds for claims paid out of the Client Protection Fund. Commissioner Shanor made a motion to approve the proposal to hire Mr. Bass in the collection action and to advance the sum of \$200 for filing fees. The motion was seconded and it passed.

## **12. Reciprocity Committee Report**

Reciprocity Committee Chair Dennis Jontz reported on the Reciprocity Committee meeting and distributed the draft reciprocity rule developed by the committee to the Board. The purpose of the committee was to develop the best rule for the Court's consideration. Chief Justice Maes and Justice Serna participated on the committee. The rule will be sent to the voluntary bars for comment and the committee will meet to review any comments received. The final rule and any comments received from the voluntary bars will then be forwarded to the Supreme Court.

## **13. Approval of Section Bylaw Amendments**

Membership and Communications Director Christine Morganti reported on and requested the Board's approval of the following Section Bylaw amendments:

### **A. Natural Resources, Energy and Environmental Law Section**

The section requested a change to its Bylaws to include e-mail voting, in addition to regular mail. Commissioner Alcott made a motion to approve the Bylaw change; the motion was seconded and it passed.

### **B. Public Law Section**

The section requested a change to its Bylaws to remove the non-attorney member reducing the board composition to 12 members. Commissioner Berlin made a motion to approve the Bylaw change; the motion was seconded and it passed.

## **14. Section Legislative Advocacy Compliance**

Membership and Communications Director Christine Morganti reported on legislative advocacy compliance for the following sections. The Business Law Section is supporting the passage of a bill enacting the Uniform Limited Partnership Act (2001), and the Taxation Section is commenting on proposed amendments to Section 3.3.1.9 of the New Mexico Administrative Code regarding residency for income tax purposes. The section requests that language be added regarding the allocation of income for a married couple where one is a resident of and domiciled in a state other than New Mexico.

## **15. Division Reports**

### **A. Young Lawyers Division**

Young Lawyers Division Chair Mo Chavez reported that the American Bar Association YLD officers and directors will hold a meeting at the Hyatt Regency Tamaya next August; he noted that the Division encouraged new commissioner Richard Jacquez to apply for the vacancy on the BBC in the Seventh Bar Commissioner District. The Division is holding a strategic planning meeting during the Bench & Bar Conference on November 6. At the retreat, the Division will be reviewing current and new programs, including vanity license plates in New Mexico, which is a program of the Texas YLD that brings in revenues of \$30,000 per month and benefits Equal Access to Justice.

### **B. Senior Lawyers Division**

Senior Lawyers Division Delegate Dan Behles reported that the Division is holding its annual meeting and a reception during the Bench & Bar Conference on November 5.

He also noted that the Division is obtaining additional volunteers to staff the KOB-TV call-ins. The call-in program is still very successful and handles approximately 230 calls per month.

**C. Paralegal Division**

Paralegal Division Liaison Kay Homan reported that the Division cosponsored two successful CLE programs on October 23 entitled: "Fundamentals of Water Law" and "The Changing Role of Paralegals." The Division's educational brochures on the utilization of paralegals have been printed and will be available at the Bench & Bar Conference. The Division coordinated a team for the American Lung Association Asthma Walk and raised over \$3,000. The Division's next meeting is scheduled for November 13 in Las Cruces, and Linda Murphy is the incoming chair for 2005.

**16. New Business**

- A.** Executive Director Joe Conte reported on a meeting with Common Cause and the Court regarding public funding for appellate judicial campaigns. Suggestions from the meeting included a dues assessment and a voluntary checkoff on the State Bar dues form. Following discussion, the Board voted not to support public funding for appellate judicial campaigns.
- B.** Commissioner Berlin reported that the Center for Civic Values is in need of volunteers to judge at Mock Trial in February and March next year.

There being no further business, the meeting was adjourned at 3:20 p.m.

**BOARD OF BAR COMMISSIONERS**  
**December 17, 2004, MEETING MINUTES**  
**Bar Center, Albuquerque, NM**

**MEMBERS PRESENT:**

|                    |                         |
|--------------------|-------------------------|
| Henry A. Alaniz    | Kay L. Homan            |
| Colin C. Alcott    | Dennis E. Jontz         |
| Daniel J. Behles   | Damon P. Martinez       |
| David M. Berlin    | Daniel J. O'Brien       |
| B. Paul Briones    | Craig A. Orraj          |
| Robert D. Castille | Jessica A. Perez        |
| Morris J. Chavez   | Albert L. Pitts         |
| Virginia R. Dugan  | Charles J. Vigil        |
| Jane Shuler Gray   | Elizabeth E. Whitefield |

**MEMBERS ABSENT:**

Monica M. Ontiveros  
Donald C. Schutte  
Stephen S. Shanor

**OTHERS PRESENT:**

|                        |                     |
|------------------------|---------------------|
| Kris Becker            | Mike Murphy         |
| Beatrice J. Brickhouse | Linda A. Murphy     |
| Roxanna M. Chacon      | Anita Otero         |
| Joe Conte              | Carol Skiba         |
| Mike Hart              | Max Shepherd        |
| Rob Koonce             | Richard Spinello    |
| Hank Kelly             | Madonna Vandeventer |
| Orlando Lucero         |                     |

**1. Board of Bar Commissioners Election Results/Welcome and Introduction of New Commissioners**

The ballots for the First Bar Commissioner District were counted on November 30<sup>th</sup>. The following were elected and/or re-elected to the Board for three-year terms:

First Bar Commissioner District – Beatrice J. Brickhouse  
Third Bar Commissioner District – Robert D. Castille (uncontested)  
Fourth Bar Commissioner District – Abigail P. Aragon (uncontested)  
Sixth Bar Commissioner District – Jane Shuler Gray (uncontested)  
Seventh Bar Commissioner District – Richard M. Jacquez (uncontested)

The Division representatives for 2005 will be Roxanna M. Chacon, Young Lawyers Division Chair; Linda A. Murphy, Paralegal Division Liaison; and Daniel J. Behles, Senior Lawyers Division Delegate.

**2. Reciprocity Committee Report**

Chair Dennis Jontz reported on the December 9<sup>th</sup> meeting and background of the committee. The committee was formed pursuant to the results and comments from the membership survey expressing interest in reciprocity. The objective of the committee was to draft the best possible rule for the Supreme Court's consideration. The committee used the ABA Model Rule to develop a reciprocity rule for New Mexico. The draft rule was sent to the voluntary bars for comment and those comments were included in the materials. The committee requested that the Board take a position on reciprocity and forward the rule to the Supreme Court. Several commissioners expressed concern that the Board represents the membership and input should be solicited from the entire membership, not just the voluntary bars. Carol Skiba with the Board of Bar Examiners reported that she forwarded the draft rule to other jurisdictions for input and noted some of the requirements of other states, which are not included in the draft rule. Commissioner Jontz noted that the committee discussed other states' requirements and that reciprocity rules are not the

same in any state, but only states with similar rules to ours would qualify. He also noted that the final decision of who would qualify would be at the discretion of the Board of Bar Examiners. Michael Murphy reported that regardless of the rule, a character and fitness report would still be required. Commissioners discussed the pros and cons of reciprocity and questioned the financial impact it would have. Mr. Murphy noted that there have been no studies conducted on the financial impact of reciprocity in other states and that it would be difficult to measure. Following discussion, Commissioner Alaniz made a motion to table a decision on reciprocity to the January meeting in order to solicit input from the membership and discuss with constituents. The motion was seconded and it passed. The draft rule will be published in the *Bar Bulletin* and e-mailed to the membership for comment.

### **3. Approval of November 4, 2004 Meeting Minutes**

Commissioner Whitefield made a motion to approve the November 4, 2004 meeting minutes as submitted; the motion was seconded and it passed.

### **4. Finance Committee Report**

The Finance Committee met prior to the Board meeting and Secretary-Treasurer Jontz reported on the Committee's discussion and recommendations as follows:

- A. Accepted the October 2004 Financials and Executive Summary;
- B. Reviewed the accounts receivable aging report as well as the executive director's travel reimbursements and credit card file;
- C. Reviewed health insurance quotes and reported that the Bar's health insurance increased 26 percent; and
- D. Reviewed the 2004 audit schedule.

### **5. Acceptance of Financials**

Commissioner Alaniz made a motion to accept the October 2004 Financials; the motion was seconded and it passed.

### **6. Annual Meeting**

Pursuant to Article III of the State Bar Bylaws, the State Bar is required to hold an annual meeting to consider any resolutions or motions presented for consideration. Notice of the annual meeting was published in the Bar Bulletin at least 60 days prior to the meeting. President O'Brien called the Annual Meeting to order. No resolutions or motions were received or presented for consideration. Commissioner Alaniz made a motion to close the Annual Meeting; the motion was seconded and it passed.

### **7. President's Report**

President O'Brien reported on the following:

#### **A. December 15<sup>th</sup> Budget Meeting with Supreme Court**

The Supreme Court approved the State Bar's 2005 Budget and conducted the swearing-in of the new officers.

#### **B. Oklahoma Bar Convention**

He attended the Oklahoma Bar Convention in November and reported that the percentage of members who attend is similar to our Bar's attendance at convention.

**C. CLE at Sea Caribbean Cruise**

The cruise was very successful with 86 attendees, and he is pursuing options for a 2005 cruise.

**8. President-elect's Report**

President-elect Vigil reported on the following:

**A. BBC Internal Committee Appointments**

A sign-up sheet was distributed and commissioners volunteered to serve on the following BBC Internal Committees: Finance, Executive, CLE Oversight, Annual Awards and Personnel.

**B. 2005 Board of Bar Commissioners Meeting Schedule**

The 2005 meeting schedule was presented as follows: January 28, April 1, May 20 (Taos), July 15, September 22 (Ruidoso), which was changed from September 15 due to a change in the annual meeting dates, October 28 and December 9.

**C. Update Regarding the Alternative Methods of Dispute Resolution Committee**

He attended the November 12<sup>th</sup> meeting of the Alternative Methods of Dispute Resolution Committee to discuss the benefits of and possibility of the committee becoming a section. The committee did not make a decision at that meeting, but he will discuss it with the committee again in 2005.

**9. Discussion Regarding LREP/Aging Issues**

This item was tabled indefinitely.

**10. Discussion of Judicial Campaigns**

President-elect Vigil requested input from the Board regarding an article from the November/December Bar Leader publication entitled 'Keep it clean: Bars help ensure a fair judicial campaign this year.' He asked what the State Bar's role should be with regard to judicial campaigns and suggested forming a committee to monitor and/or regulate campaigns. Following discussion, the Board directed Executive Director Joe Conte to contact other bars to find out what they are doing with regard to judicial campaigns and put on next year's agenda prior to the election to review further.

**11. Executive Director's Report**

Executive Director Joe Conte's Report and the State Bar October/November Newsletter were included in the materials.

**12. Update on Public and Legal Services for 2005**

Public and Legal Services Department (PLSD) Director Richard Spinello provided a departmental update and reported on plans and projects for 2005. He noted that the department has moved to a centralized intake that covers all of the PLSD programs and has expanded its hours to full time to better serve the public. PLSD will also be implementing a new legal helpline for the working poor.

**13. Approval of Client Protection Fund Recommendation**

Public and Legal Services Director Richard Spinello reported on and requested the Board's approval of recommendations to pay two claims made to the Client Protection Fund. Commissioner Behles made a motion to accept the recommendations to pay both of the claims; the motion was seconded and it passed.

**14. Approval of Amendments to Unauthorized Practice of Law Statutes**

At the September meeting, the Board directed the Unauthorized Practice of Law Subcommittee to draft amendments to the UPL Statutes. Orlando Lucero, chair of the subcommittee, reported that the subcommittee attempted the following in redrafting the UPL law: define the practice of law, describe what is against the law, list exceptions, and provide remedies, injunctions, civil and criminal penalties. He distributed copies of the amendments to the UPL Statutes 36-2-27 and 36-2-28 and requested the Board's approval. The Board discussed the definition of the practice of law, several of the remedies, as well as title companies handling real estate transactions, which would seem to fall under the list of exceptions. Mr. Lucero stated that the amendments create more of an incentive for UPL complaints to be filed, and if approved by the Board, the subcommittee would present the amendments to and lobby the Legislature to adopt them. Commissioner Behles made a motion to authorize the UPL Subcommittee to take the amendments to the Legislature and lobby for them without expending any bar funds. The motion was seconded and it passed on the condition that if substantial changes are made to the amendments, then the Executive Committee would review the changes.

**15. Bylaws/Policies Committee Report**

This item was tabled to the January 28<sup>th</sup> meeting in order for the Bylaws/Policies Committee to review the Editorial Policy.

**16. Appointments to Supreme Court Committees/Boards**

President-elect Vigil appointed the following liaisons to serve on the Supreme Court Committees and Boards:

- Courts of Limited Jurisdiction – Jessica A. Perez
- Rules of Criminal Procedure for District Courts – Donald C. Schutte
- Rules of Civil Procedure for District Courts – David M. Berlin
- Appellate Rules – Robert D. Castille
- Rules of Evidence – Craig A. Orraj
- Uniform Jury Instructions-Civil – Albert L. Pitts
- Uniform Jury Instructions-Criminal – Donald C. Schutte
- Minimum Continuing Legal Education (MCLE) Board – Daniel J. O'Brien
- Legal Specialization Board – Daniel J. Behles
- Board of Bar Examiners – Henry A. Alaniz
- Children's Court Rules – Beatrice J. Brickhouse

**17. Annual Meeting Planning Committee Report**

Co-chairs Dan O'Brien and Chuck Vigil reported on the December 13<sup>th</sup> Annual Meeting Planning Committee and outlined the proposed schedule for the 2005 Annual Meeting in Ruidoso, September 22-24. The committee decided to move the dates to September 22-24 from September 15-17, because the annual motorcycle rally will be held that weekend. The CLE programs will focus on the basics and include more practice updates. The sections and voluntary bars will be invited to participate, and the Governors of Arizona and New Mexico will be invited to speak. The Past Presidents' Dinner will be held Thursday evening and a golf tournament is being planned for Saturday afternoon.

**18. Division Reports**

**A. Young Lawyers Division**

Young Lawyers Division Chair Mo Chavez reported that the new officers were elected at their December 11<sup>th</sup> meeting. He welcomed Roxanna Chacon, the new Chair of the Division and representative on the Board of Bar Commissioners for 2005. He reflected on the diversity of the YLD Board and noted a new ABA/YLD public service program that the Division is working on entitled "We the Jury," designed to educate both junior high and high school students about the importance of jury service.

**B. Senior Lawyers Division**

Senior Lawyers Division Delegate Dan Behles reported that the December SLD Board meeting was cancelled. The KOB call-in program handled 2,468 calls in 2004, and he suggested publicizing the program and the involvement by the senior lawyers. He also reported that he will remain the SLD Delegate on the Board of Bar Commissioners for 2005. PLSD Director Richard Spinello reported that four Spanish call-in programs are planned for 2005 and the department will check with the Hispanic Bar and the law school for volunteers.

**C. Paralegal Division**

Paralegal Division Liaison Kay Homan welcomed Linda Murphy, the new Chair of the Division and the Division's Liaison to the Board of Bar Commissioners for 2005. She reported that the Division will be holding its annual meeting and cosponsoring a CLE seminar entitled "The Basics of Real Estate Transactions from Negotiation to Closing" presented by Jack McCarthy and John Patterson on January 22<sup>nd</sup>. The Division's 2004 Annual Report and 2005 Budget were included in the materials.

**19. New Business**

**A.** Commissioner Alaniz made a motion for the Board to go into Executive Session. Following the Executive Session, Commissioner Behles made a motion to ratify the action taken in Executive Session; the motion was seconded and it passed.

**B.** On behalf of the Lawyers Professional Liability Committee, Hank Kelly presented a draft proposal regarding limited liability corporations (LLC) and limited liability partnerships (LLP). Mr. Kelly requested the Board's approval for the committee to request that the NM Supreme Court enter an Order adopting a new Rule 24-106 of the Rules Governing the New Mexico Bar. The new rule would enable New Mexico lawyers to have the ability to practice in their profession as a member, owner, partner or employee of an LLC or an LLP, and be permitted the benefits of limited liability and of the governance and tax flexibility afforded by the LLC/LLP entity form. Commissioner Briones made a motion authorizing the committee to request the NM Supreme Court to enter an order adopting the new Rule 24-106 of the Rules Governing the New Mexico Bar. The motion was seconded and it passed.

**C.** Michael Hart, President of the NM Trial Lawyers Association, reported that the trial lawyers disapproved of an article published in the December 2<sup>nd</sup> issue of the *Bar Bulletin* entitled "Personal Responsibility and the Cult of Victimhood in Tort Law." He stated that the article could have been interpreted as expressing the views of the State Bar membership or the Board of Bar Commissioners, as there was no disclaimer published. He requested that content published in the *Bar Bulletin* be managed more carefully. The Board discussed the role of the Board of Editors and the need for more oversight. Following discussion, the Board decided to publish a disclaimer in the *Bar Bulletin* stating that the article was not

a position of or reflective of the views of the Board of Bar Commissioners or the State Bar and to invite the NM Trial Lawyers Association to submit a response for publication in the *Bar Bulletin*. Commissioner Whitefield suggested that the Bylaws/Policies Committee review the Editorial Policy and make any necessary amendments for the Board's approval at the January meeting.

- D. Executive Director Joe Conte reported on legislative advocacy compliance for the Family Law Section. The section is considering taking a position regarding amendments to the Guardian Ad Litem Statute, Section 40-4-8, for the purpose of providing technical assistance and of lobbying the 2005 Legislative Session.

## **20. Presentation of Outgoing Commissioner Plaques**

President O'Brien presented plaques to outgoing commissioners Colin C. Alcott, Elizabeth E. Whitefield, Morris J. Chavez (Young Lawyers Division Chair) and Kay L. Homan (Paralegal Division Liaison).

There being no further business, the meeting was adjourned at 4:55 p.m.