BOARD OF BAR COMMISSIONERS
DECEMBER 6, 2010 MEETING MINUTES
Supreme Court Building, Santa Fe, NM

MEMBERS PRESENT:	Henry A. Alaniz	Danny W. Jarrett
	Gary D. Alsup	Twila B. Larkin
	Erika Anderson	J. Brent Moore
	Daniel J. Behles	Hilary A. Noskin
	David M. Berlin	Jessica A. Perez
	Roxanna M. Chacon	Wesley O. Pool
	Martha Chicoski	Stephen S. Shanor
	Andrew J. Cloutier	Raynard Struck
	Dominic E. Dutton	Deborah R. Tope
	Michelle Lujan Grisham	Hans Voss
MEMBERS ABSENT:	R. David Pederson	
	Carolyn A. Wolf	
OTHERS PRESENT:	Justice Richard C. Bosson	Brigitte U. Lotze
	Kris Becker	Christine Morganti
	Joe Conte	Richard Spinello
	Kay L. Homan	Madonna Vandeventer

1. Approval of September 24, 2010 Meeting Minutes

Commissioner Alsup made a motion to approve the September 24, 2010 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 Drew Cloutier reported on the Committee's discussion and recommendations as follows:

A. Reviewed the RFPs for the 2010-1012 Financial Audit and the 2012-1015 Budget Audit; Meyners + Co. submitted the lowest bid, which was almost $13,000 less than that of the next closest bid. Bruce Malott has a conflict of interest, so the principal who took care of the Bar's account during the *Popejoy* litigation will handle the account. The Finance Committee recommended accepting the bid from Meyners + Co. Commissioner Cloutier made a motion to approve the recommendation and the motion passed;

B. The committee discussed moving the mortgage over to the USNMFCU from Wells Fargo; the interest rate is the same, but the closing costs will be $3,000; Ironstone Bank sent a rate sheet with lower interest rates, and we will investigate it further with them and also talk with the USNMFCU;

C. The Bar Center roof is beyond repair and the committee reviewed bids for a roof replacement, which are between $60,000 and $70,000; the committee had some questions regarding the materials to be used, and Commissioner Pool will contact the roofing companies and report back to the committee; and

D. The committee recommended closing all of the Bar's accounts at Wells Fargo and moving them over to USNMFCU, except for the operating account which is used to pay the mortgage; Commissioner Cloutier made a motion to authorize Madonna Vandeventer to close the accounts, with the exception of the operating account, and move them over to the USNMFCU and the motion passed.

3. Stipulation of Interest

A series of deeds were done over the years regarding State Bar building ownership. The percentages of ownership between the Bar Foundation and the State Bar were not allocated correctly and exceeded 100 percent. A Stipulation of Interest was prepared to correct the interests and allocate 37 percent to the Bar Foundation and 63 percent to the State Bar. Commissioner Cloutier made a motion to authorize the president to execute the Stipulation of Interest on behalf of the State Bar; the motion was seconded and it passed.

4. Acceptance of Financials

The October financials were not available due to the information not being provided in a format compatible with our accounting software from the payroll company that the Bar contracted with in October to handle the Bar's payroll. Madonna Vandeventer and Lighthouse will continue to work with them to resolve the issues, and a special meeting of the Finance Committee will be scheduled to review the financials once they are finalized.

5. Executive Session

The Board went into executive session to discuss a personnel issue.

6. Bylaws and Policies Committee Report and Recommendations

Chair David Berlin reported on the November 29th meeting regarding the following:

A. Proposed Bylaw Amendment to Article II, Section 2.3, License Fees

Kathleen Jo Gibson requested an amendment to Article II, Section 2.3, License Fees, of the State Bar Bylaws regarding the reinstatement language for the committee's consideration. The committee revised the proposed language and provided thirty days' notice of the bylaw amendment at the September meeting. Commissioner Berlin made a motion to approve the bylaw amendment and the motion passed.

B. Proposed Bylaw Amendment to Article XII, Indemnification of Officers and Directors

The Board voted to approve insurance coverage for the section directors, officers and committee chairs at the July meeting, and the Bar's insurance company requested an amendment to the bylaws in order to provide for that coverage. Thirty days' notice is required prior to approval, so a vote will be taken at the January meeting.

C. Proposed Bylaw Amendment to Article IV, Subsection 4.2b, Forfeiture of Position

Pursuant to a discussion at the Officers' and Directors' Retreat, an amendment was proposed to the bylaws regarding missed meetings. The Bylaws and Policies Committee reviewed the current bylaw and recommended that no amendments were necessary, so no action was taken.

D. Hispano Chamber of Commerce Membership

At the September meeting, the Board considered a request to join the Hispano Chamber of Commerce and referred it to the Bylaws and Policies Committee to discuss and make a recommendation. The committee recommended not joining the association. Commissioner Berlin made a motion to approve the committee's recommendation and the motion passed.

7. Governmental Affairs Committee Report and Recommendation

Chair Alaniz reported on the November 16th meeting regarding the following:

A. Judicial Funding

At the September meeting, the Board received a request from the Supreme Court to support judicial funding. Artie Pepin, Director of the Administrative Office of the Courts, attended the meeting and distributed a list of draft legislation and issues, which the Board referred to GAC to discuss and make recommendations. Due to the current state budget crisis, the committee recommended supporting the following items, since they did not require additional funding: item 2 regarding the Ninth Judicial District which would allow the judge to be from any division; item 4 regarding Metropolitan Court Judge Eligibility; item 5 regarding permitting charging offenders for collection costs in Magistrate or Metro Courts; and item 7 to amend the constitution regarding the timing for election of judges. Commissioner Alaniz made a motion to approve the committee's recommendation. Commissioner Alsup requested a friendly amendment to include item number 1 to add an additional judge in the 8th Judicial District, since that district needs more judges. Commissioner Alaniz accepted the amendment and the motion passed.

B. Law School for Legislators

Executive Director Joe Conte requested approval to put on a Law School for Legislators program, similar to the one that was done in 2006, and the committee recommended approval. Commissioner Alaniz made a motion to approve the program and the motion passed. Raul Burciaga, Director of Legislative Council Services, informed us that there isn't any money to pay the legislators per diem and recommended doing the program in Santa Fe after the session rather than prior to the session, so the training may be postponed.

C. Proposed UPL Legislation

The UPL Working Group for non-attorneys met regarding draft UPL Legislation. Under the current statute, only the Attorney General has limited authority to prosecute actions related to unauthorized practice of law. The 2007 proposed legislation's definition of the practice of law had numerous exceptions and did not pass at that time. The working group amended the 2007 draft legislation to authorize the State Bar and any local bar association that the State Bar authorizes to prosecute broader UPL actions. The UPL Task Force requested approval of the draft legislation and authority to solicit sponsors for the bill, and GAC recommended approval of the request. Commissioner Alaniz made a motion to approve the recommendation and the motion passed. Commissioner Moore abstained from the vote.

8. Appointment to Client Protection Fund Commission

There was a vacancy on the Client Protection Fund Commission for a three-year term. A notice was published in the *Bar Bulletin*, and the following submitted letters of interest and resumes, including the Board's current appointee, Dan O'Brien, requesting reappointment:

A. George C. Kraehe
B. Daniel J. O'Brien (current appointee)
C. Stormy Ralstin

Following discussion, Commissioner Dutton made a motion to reappoint Daniel J. O'Brien by acclamation to the Client Protection Fund Commission for a three-year term and the motion passed.

9. Appointment to DNA People's Legal Services, Inc., Board

There was a vacancy on the DNA People's Legal Services, Inc., Board to fill the unexpired term of the Board's previous appointee, Theodore W. Barudin, who resigned. A notice was published in the Bar *Bulletin*, and the following submitted letters of interest and resumes:

A. John H. Clough
B. Richard P. Fahey
C. Peter N. Ives
D. Roderick Ventura

Following discussion, Commissioner Dutton made a motion to appoint Peter N. Ives by acclamation to the DNA People's Legal Services, Inc., Board for the remainder of an unexpired term and the motion passed.

10. Appointments to New Mexico Legal Aid Board

There were two vacancies on the NM Legal Aid Board for a one-year term and a three-year term. A notice was published in the *Bar Bulletin*, and the following submitted letters of interest and resumes, including the Board's current appointee, Elizabeth J. Gutierrez, requesting reappointment:

A. Tyler J. Atkins
B. Sandy Barnhart y Chavez
C. John H. Clough
D. Elizabeth J. Gutierrez (current appointee)
E. Carolyn T. Lumbard
F. Carrie Martell
G. J. Brent Ricks
H. Betsy R. Salcedo
I. David A. Stevens
J. Elizabeth Rodke Washburn

Following a vote by secret ballot, Elizabeth J. Gutierrez was reappointed to a three-year term and Elizabeth Rodke Washburn was appointed to a one-year term on the NM Legal Aid Board.

11. EAJ Merger Update

President Shanor reported on the EAJ merger with the Bar Foundation for which the terms and conditions were approved, in concept, at the September meeting. The Board discussed the issues associated with the merger and decided not to proceed with the merger. Executive Director Joe Conte reported that Kate Mulqueen had advised her Board that if the merger did not proceed then she would resign from EAJ. Commissioner Noskin made a motion to let the contract with EAJ lapse at the end of the year; the motion was seconded and it passed unanimously.

12. 2011 Draft Membership Survey

The 2011 draft Membership Survey was included in the materials. President-elect Perez made a motion to approve the survey as presented; the motion was seconded and it passed. The survey will be sent out to members in January.

13. UPL Task Force Report and Update

Chair Cloutier reported on the UPL Task Force meetings and the proposed rule changes, which were forwarded to other entities for comments. He reported that the task force looked at pro hac vice and reciprocity and formed two groups, one focusing on attorneys and one focusing on non-attorney issues. The proposed rule changes limit the number of appearances a lawyer not licensed in New Mexico could make by pro hac vice, expand pro hac vice to include transactional lawyers and increase the costs to appear. The Task Force addressed some concerns of the Professional Conduct Committee and they received support from the law school, Disciplinary Board and Board of Bar Examiners. The law school requested additional changes, but the Task Force didn't take any action on them, as they were not within the purview of the Task Force. Chair Cloutier requested the Board's approval for the Task Force to forward the proposed rules to the Supreme Court. Commissioner Anderson made a motion to approve the request; the motion was seconded and it passed. Chair Cloutier acknowledged Lisa Pullen, Jessica Hernandez and Richard Spinello for all of their work on the Task Force and revising the rules.

14. Legal Research Committee Report

The committee met with Steve Newsom with Casemaker in October and received a demonstration on their new products and services. Chair Larkin reported that Casemaker is predicting that the primary legal research is going to be free in the future, so they are building services, such as daily digests and a citator service, around the free research. The additional services would be available for sale to our members. If members purchase the additional services, there would be a potential for revenue sharing and the Bar could recoup its costs in just a year or two. The renewal cost with Casemaker was quoted at $48,000 and the term of the contract would be for three years. Fastcase has offered to meet Casemaker's price, and the committee will meet with Fastcase in January or February.

15. President Report

President Shanor provided a report on the following:

A. Local Bar Meetings

He met with members of the Chaves County Bar and presented the professionalism program.

B. Mentorship Program

The rules creating the new mentorship program and replacing the professionalism requirement were published for comment, which ended November 29. Several comments were received, both in favor and opposed, to the new program. Those who were opposed were not in agreement with the mandatory nature of the program. He will be meeting with the Court on January 6, and Chief Justice Daniels forwarded the comments to him to address prior to the meeting.

C. Other

Chief Justice Daniels appointed him to the National Commission on State Courts.

16. President-Elect Report

President-elect Perez requested volunteers and reported on the following:

A. Supreme Court Boards and Committees Liaison Appointments/Reappointments

President-elect Perez requested volunteers to serve as liaisons to the Supreme Court Boards and Committees.

B. BBC Internal Committee Appointments

A sign-up sheet for the Board's internal committees, including Finance, Bylaws and Policies, Personnel, Governmental Affairs and Annual Awards, was distributed at the meeting.

C. Board Retreat

At the November Board Retreat, the directors received input for their Strategic/Operational Plans, and they were revised and included in the materials.

D. 2011 Annual Meeting and CLE Trip

The theme for the annual meeting is "We've Come A Long Way: 125 Years of Service to the Profession" and Kendall Coffey will be the keynote speaker. Mr. Coffey has had some high profile cases and has written a book about trying cases in the media. The CLE trip will be to Napa Valley in September.

17. State Bar Strategic/Operational Plan

Pursuant to input received at the Board Retreat in November, the Strategic/Operational Plan was revised and included in the materials.

18. 2011 BBC Meeting Schedule

The 2011 BBC Meeting Schedule is as follows: January 28, April 29, July 14 (Buffalo Thunder, in conjunction with the Annual Meeting), September 23, and December 7 (Santa Fe, in conjunction with the new officers swearing-in ceremony).

19. 2012 Mock Trial Update

The State Bar committed to raise $50,000 by the end of 2011, and the committee needs assistance from the Board with identifying people and organizations to contact. The committee will ask one of the mock trial teams to do a presentation at the annual meeting.

20. Executive Director Report

Executive Director Joe Conte reported that Jill Anne Yeagley with the Lawyers Assistance Program will be full-time on January 1, and that he hired a managing attorney for LREP and his name is Christopher Spence.

21. Bar Commissioner District and Division (SLD, YLD & PD) Reports

Commissioners and division representatives reported on meetings and activities in their districts and divisions.

22. State Bar Newsletter and Department Reports

The November State Bar Newsletter was included in the materials and the directors reported on their department highlights.

23. Presentation of Outgoing Commissioner Plaques

President Shanor presented plaques to commissioners with terms expiring this year as follows: Henry Alaniz from the First Bar Commissioner District, Gary D. Alsup from the Fourth Bar Commissioner District, Daniel J. Behles (SLD Delegate), Martha Chicoski (YLD Chair), and Deborah R. Tope (Paralegal Division Liaison). President-elect Perez presented a plaque to President Shanor for his service to the Board and the State Bar this year.

24. New Business

A. Resolution in Support of Magistrate Reform

Eric Dixon sent a request to support a resolution requiring magistrate judges to be licensed attorneys. Commissioner Cloutier made a motion to refer the issue to the Governmental Affairs Committee to make a recommendation; the motion was seconded and it passed.

B. Resolution Regarding the Bar's Cafeteria Plan

A resolution was prepared incorporating the new privacy rules into the Bar's cafeteria plan. Commissioner Berlin made a motion to approve the resolution; the motion was seconded and it passed.

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