

**BOARD OF BAR COMMISSIONERS
APRIL 29, 2011 MEETING MINUTES
State Bar Center, Albuquerque, NM**

MEMBERS PRESENT:

Erika Anderson
Deborah A. Armstrong
David M. Berlin
John P. Burton (by phone)
Roxanna M. Chacon
Andrew J. Cloutier
Ernestina R. Cruz (by phone)
Dominic E. Dutton
Michelle Lujan Grisham
Kay L. Homan

Danny W. Jarrett
Brigitte U. Lotze
J. Brent Moore
Hilary A. Noskin
R. David Pederson
Jessica A. Perez
Wesley O. Pool
Stephen S. Shanor
Raynard Struck
Hans Voss

MEMBERS ABSENT:

Martha Chicoski
Twila B. Larkin

OTHERS PRESENT:

Kris Becker
Joe Conte
Veronica Cordova
Rob Koonce
David Levin
Christine Morganti

Kate Mulqueen
Craig Orraj
Bill Slease
Richard Spinello
Madonna Vandeventer

1. Approval of January 28, 2011 Meeting Minutes

Commissioner Pool made a motion to approve the January 28, 2011 meeting minutes; the motion was seconded and it passed.

2. Finance Committee Report

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

- A. Reviewed the accounts receivable aging report as well as the directors' reimbursements and credit card file; accounts receivables total \$6,700 and staff will decide whether to write them off;
- B. Reported that 73 members had not paid their dues and the Supreme Court will be suspending them; and
- C. Reported that Meyners + Co. merged with Clifton Gunderson, a national accounting firm, which prohibits its accountants from certifying budget projections, which is also the trend around the country; however, they will still conduct the financial audit. The RFP will include the budget disclosure requirements.

3. Acceptance of Financials

Secretary-Treasurer Anderson reported that revenues over expenses are \$40,000 to the positive. Commissioner Dutton made a motion to accept the financials; the motion was seconded and it passed.

4. Authorization for President Pérez to sign the USNMFCU Mortgage Closing Documents

At the January meeting, the Board approved authorizing the officers to sign the mortgage closing documents to refinance the loan with the US New Mexico Federal Credit Union; however, the credit union requested authorization for President Pérez, specifically, to sign the documents. Commissioner Pool

made a motion to authorize President Pérez to sign the mortgage closing documents; the motion was seconded and it passed.

5. Executive Committee Report

President Pérez reported on the following:

A. March 16th meeting regarding the Pro Hac Vice Grant Committee's recommendations-- the committee approved funding 14 agencies for a total of \$200,000, which includes \$140,000 from pro hac vice fees and \$60,000 from donations to the NMSBF on the dues form.

B. March 25th meeting regarding:

(1) EAJ

Correspondence from Tom Popejoy regarding the handling of EAJ donations and a response from the Bar to Tom Popejoy was included in the materials. In follow up, both organizations agreed to move forward.

(2) Mock Trial

Correspondence from Michelle Giger, Executive Director of the Center for Civic Values (CCV), regarding the removal of the contributions section from the dues form was included in the materials for the Board's information.

The Board discussed a request from CCV for funding. The Board discussed whether the State Bar should provide funding to pass-through agencies or directly to civil legal service providers and recommended that the Bylaws and Policies Committee develop a policy for future guidance on these types of requests. The Board requested that the discussion be continued in the Bar Foundation meeting since those funds fall under the Bar Foundation.

(3) Budget Audit

See item 2, Finance Committee Report, above.

6. Executive Session

This item was tabled to the July meeting.

7. Legal Research Committee Report and Recommendation

In Chair Twila Larkin's absence, Commissioner Cloutier reported that the Committee looked at Casemaker and Fastcase and met with representatives from both companies and recommended entering into a three-year contract with Fastcase. Commissioner Moore made a motion to sign a three-year contract with Fastcase at a cost of \$40,000 per year and to notify Casemaker that the Bar will not be renewing its contract with them; the motion was seconded and it passed.

8. UPL Update

Chair Cloutier reported that House Bill 413 passed in the Legislature and the Committee will be meeting to discuss implementation. The Supreme Court has reviewed the draft changes to the UPL rules and has several questions. Chair Cloutier and General Counsel Richard Spinello will be meeting with the Supreme Court to address their questions.

9. Disciplinary Board Update

Chief Disciplinary Counsel Bill Slease and Liaison Craig Orraj addressed the Board regarding the Disciplinary Board's goals, including increasing transparency and participation with the State Bar on

various initiatives. The Disciplinary Board is cosponsoring the National CPF Meeting in Santa Fe in October and will be holding an open meeting at the annual meeting in Santa Fe. They hope members will attend and provide input. They will be working with the Commission on Professionalism to select mentors for the new Bridge the Gap Mentorship Program, and they also have plans to place a link from the State Bar to their website to display disciplinary actions. He noted that national trends show that lawyers with 10 or more years of practice and solo practitioners receive the most complaints.

10. Bylaws and Policies Committee Report and Recommendations

Chair David Berlin reported on the April 20th meeting regarding the following:

A. Proposed Bylaw Amendment to Article II, Section 2.5, Voluntary Withdrawal

Kathleen Jo Gibson requested amendments to Article II, Section 2.5, Voluntary Withdrawal, to clarify the procedure and coincide with Supreme Court Rule 24-102 NMRA. The rules have not been amended yet, so the bylaw amendment is contingent upon the rules being amended. Thirty days' notice was provided at the January meeting. Commissioner Berlin made a motion to adopt the amendment to Article II, Section 2.5, contingent upon the rules being amended, and the motion passed.

B. Publishing Notices for Local and Voluntary Bar CLE Programs

At the January meeting, the Committee recommended approval of a new policy permitting local and voluntary bars to publish notices in ENews. The Board tabled the policy for further discussion by the committee, and the committee proposes the following new policy:

“The State Bar will publish notices in ENews for local and voluntary bars under a separate section designated for those associations one time only, and the timing of the publication of those notices will be determined by the associations.”

The Committee will conduct a comprehensive study of all related policies and issues regarding notices and will compile them into one policy. Commissioner Berlin made a motion to adopt the policy; Commissioner Noskin asked for clarification as to whether the notice would be published one time only or per event; Commissioner Berlin stated that it is per event and requested that the policy be amended to reflect that, and the motion passed.

C. Sections Cosponsoring Programs with CLE

This item was tabled for further discussion by the committee.

11. Appointments to DNA People's Legal Services, Inc., Board

Following a vote by secret ballot, Richard W. Hughes and Peter N. Ives were elected to the DNA People's Legal Services, Inc., Board for two-year terms.

12. Request for Executive Committee to Approve Annual Awards Committee Recommendations

Due to the timing of the next Board meeting and the annual meeting at which the annual awards are presented, the Annual Awards Committee recommendations will need to be approved by the Executive Committee. Commissioner Pool made a motion to approve the request; the motion was seconded and it passed.

13. Governmental Affairs Committee (GAC) Report

GAC Chair Steve Shanor stated that this was the first full 60-day session that GAC had been in effect and a report on the committee's action taken during the legislative session was included in the materials. He thanked Commissioners Anderson and Moore for their assistance to the committee.

14. Mentorship Program Update

Co-chair Shanor reported that the Commission on Professionalism has been reconstituted and that they have developed procedures for recruiting and vetting mentors. A vetting subcommittee will be meeting on June 1 to select mentors for the new members who were sworn in on April 25. Commissioner Shanor thanked Kate Mulqueen for her hard work in setting up the program.

15. Client Protection Fund 2010 Annual Report

The Client Protection Fund (CPF) 2010 Annual Report was distributed at the meeting for the Board's information. The Fund was initially established by Supreme Court Order transferring funds from fines levied through MCLE to the Fund, and in 2009, the Supreme Court ordered a \$15 annual assessment of all active NM attorneys. The Commission reimbursed \$116,744.40 in claims against 14 attorneys in 2010. The National Client Protection Organization Fall Workshop will be held in October at the Buffalo Thunder Resort in Santa Fe.

16. President's Report

President Pérez reported on the following:

A. Supreme Court Summit held on April 6

Sixteen legal services providers attended a summit at the Supreme Court on April 6 and reported on what each organization does.

B. Western States Bar Conference

She attended the conference in Hawaii last month and participated in a panel discussion on mentorship programs along with the Utah, Wyoming and Oregon State Bars.

C. ABA Day

She attended ABA Day in D.C. last week.

D. Annual Meeting

Planning is on track; the Board meeting will be held on Thursday morning, and the Past Presidents' Dinner will be held on Thursday evening. The registration fee is comped and commissioners will be reimbursed for two nights' lodging (three nights' lodging for Finance Committee members).

E. Membership Survey Results

6,700 surveys were sent out to active members and 1,286 were completed. The results are expected in the next couple of weeks and the Membership Survey Committee will review the results and make recommendations to the Board.

F. Local Bar Visits

She attended the 12th Judicial District Bar Association meeting and spoke to 60 attendees.

G. Cuba

The State Bar is coordinating sending a delegation of New Mexico lawyers to Cuba to learn about the Cuban legal system and to share New Mexico information with Cuban lawyers. The trip is scheduled for October 1-8, and the cost is approximately \$4,000 per person.

H. Napa CLE Trip

The CLE trip is the California wine country and will be held September 16-22.

17. President-elect Report

President-elect Voss reported that he attended the NCBP Midyear Meeting in Atlanta in February, the Bar Leadership Institute in Chicago last month, and the Western States Bar Conference in Hawaii last month. He also conducted a site visit to the Hyatt Regency Tamaya Resort, which he is considering for the 2012 Annual Meeting.

18. Executive Director Report

Executive Director Joe Conte reported on the following: ABA Day, NCBP Midyear Meeting, BLI and the Western States Bar Conference for which he is the secretary-treasurer through 2015. He stated that Madonna Vandeventer will be retiring in November, and he and the directors start interviewing candidates in the next couple of weeks. He hopes to have someone hired by June so that Madonna can train her or him.

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

Commissioner and Division representatives reported on meetings and activities in their districts and divisions.

20. ABA House of Delegates 2011 Midyear Meeting Report

A written report on the ABA Midyear Meeting submitted by Chuck Vigil, the Bar's appointee to the ABA House of Delegates, was included in the materials for the Board's information.

21. New Business

David Levin, chair of the ADR Committee, spoke about the results of the Survey on the Status of ADR in New Mexico conducted by the National Center for State Courts. The report states that ADR is underutilized and there is a lack of training. In order for the Supreme Court to implement the recommendations, they will need the assistance of the ADR Committee, and the committee requested the Board's support and approval. Commissioner Dutton made a motion to refer the committee's request to the Governmental Affairs Committee; the motion was seconded and it passed.

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