

**OFFICIAL MINUTES  
STATE BAR OF TEXAS  
BOARD OF DIRECTORS MEETING  
Overton Hotel and Conference Center  
Lubbock, Texas  
Friday, April 29, 2011**

The Board of Directors of the State Bar of Texas met in a regular session on April 29, 2011 at the Overton Hotel in Lubbock. Chair Pablo Almaguer called the meeting to order at 9:00am, and Executive Director Michelle Hunter called the roll. A quorum of voting Board members was present. John Hatchel led the invocation. Dean Walt Huffman led the pledges to the U.S. and Texas flags.

***Present:***

**Board Members:** J. Arnold Aguilar, Chair of the Board Pablo Almaguer, Tim Belton, Steve Benesh, President-elect Bob Black, Talmage Boston, Roy Brantley, Virginia Campbell, Warren Cole, Jeanne C. (Cezy) Collins, David W. Copeland, Mark Daniel, Allan DuBois, Greg Dykeman, Damon Edwards, Immediate Past Chair of the Board David Fisher\*, Susan Fisher, Pamela Gilbert, Beverly Godbey, Mike Gregory, Brad Hancock, TYLA Immediate Past President Cori Harbour, John Hatchel, Bert Jennings, Immediate Past President Roland Johnson, TYLA President-elect Natalie Cobb Koehler, Kyle Lewis, Mike McDonald, Jo Ann Merica, TYLA President Jennifer Evans Morris, Toni Nguyen, Bill Odgen, Yvette Ostolaza, Tommy Proctor, Annette Raggette, Barrett Reasoner, Ricky Richards, Rob Roby, Travis Sales, Steve Schechter, Frank Stevenson, President Terry Tottenham, John Trevino, Pat Wolter

**Liaisons\*:** Scotty Holloman, Justice Phil Johnson, Judge Steve Smith, Judge Jorge Solis

**Section Representatives\*:** Luis Garcia, John Jansonius, Dan Micciche, Brian Webb

(\* = *nonvoting*)

**I. CONSENT AGENDA ITEMS:**

**Upon motion properly made by Mike Gregory and seconded by Warren Cole, the following items from the Consent Agenda were approved:**

**A. APPROVAL OF MINUTES:**

1. Approval of minutes of Board meetings conducted on *January 28, 2011*
2. Ratification of actions taken at the following Executive Committee meetings:

***April 11, 2011:*** Approved minutes of the January 11, 2011 Executive Committee meeting

**B. ITEMS FROM THE PRESIDENT:**

1. Approval of appointments to the following entities:

**Commission for Lawyer Discipline:**

for terms September 1, 2011 through August 31, 2012:

**Chair: Ron Bunch (Waxahachie)**

**Vice Chair: Lisa Tatum (San Antonio)**

for three-year terms effective September 1, 2011 through August 31, 2014:

**Hon. Theresa Chang (Houston)**

**Charles W. Schwartz (Houston)**

**Law Focused Education, Inc.**, for two-year terms effective June 1, 2011 through May 31, 2013:

**Cynthia Ladyman (Abilene)**  
**Rosemary Morrow (Austin)**  
**Eduardo Roberto Rodriguez (Brownsville)**  
**Barbara Evans (Fort Worth)**  
**Mya Mercer (Round Rock)**  
**Lilly Arnese Plummer (Odessa)**

**Legal Aid of Northwest Texas**, for a term effective April 29, 2011 through May 31, 2012:

**Charles Lotter (Dallas)**

**Texas Legal Protection Plan**, for three-year terms effective June 1, 2011 through May 31, 2014:

**Robert Avera (Austin)**  
**Stuart Smith (Dallas)**  
**Cathy Terrell (Austin)**

**Texas Center for Legal Ethics**, for three year terms effective June 1, 2011 through May 31, 2014:

**Lamont Jefferson (San Antonio)**  
**Miguel Torres (El Paso)**  
**Jesse Cantu (Edinburg)**

**Resolutions Committee**, for terms expiring at the 2011 Annual Meeting:

Officers:

**Chair: SBOT Immediate Past Chair of the Board David Fisher (Silsbee)**  
**Vice-Chair: TYLA Chair David Anderson (Dallas)**  
**Secretary: Local Bar Leaders Committee Chair Susan Sanchez (Houston)**  
**Parliamentarian: Warren Cole (Houston)**  
**Alternate: Sylvia Cardona (San Antonio)**  
**Alternate: Allan Dubois (San Antonio)**

Review Committee:

**David Fisher (Silsbee)**  
**Jeanne (Cezy) Collins (El Paso)**  
**Stephen Benesh (Austin)**

**C. ITEMS FROM THE PRESIDENT-ELECT:**

1. Approval of State Bar Committees, Chairs, Co-Chairs, Vice Chairs, Co- Vice Chairs, and members to serve during the year 2011-12 per State Bar Rules, Art. VIII, Section 1B [**Exhibit A<sup>1</sup>**]
2. Approval of members to serve on multiple standing committees:

**John Browning (Dallas) – Jury Service and Texas Bar Journal Board of Editors**

**D. ITEMS FROM COMMITTEES AND SECTIONS/DIVISIONS:**

1. Approval of request by the Government Lawyers Section to amend its bylaws [**Exhibit B**]
2. Approval of request by the Taxation Law Section to amend its bylaws [**Exhibit C**]
3. Approval of Parenting Facilitator Guidelines pursuant to Family Code Ch. 153 [**Exhibit D**]
4. Grant authority to the State Bar Court Rules Committee to forward its suggestions regarding rules 19.1 and 252 of the Texas Rules of Civil Procedure to the Supreme Court Rules Attorney [**Exhibit E**]

E. **OTHER ITEMS**

1. Approval of recipients for the pro bono awards to be presented at the Annual Meeting: [**Exhibit F**]

**Pro Bono Award:** Houston Volunteer Lawyers Program

**Frank J. Scurlock Award:** Marcy Hogan Greer and David Grenardo

**The J. Chrys Dougherty Legal Services Award:** Brian East and Nelson Mock

**W. Frank Newton Award:** Fulbright and Jaworski LLP

**Pro Bono Coordinator Award:** Ellyn Haikin Josef

2. Approval of recipients for the Nancy Garms Memorial Award to be presented at the Annual Meeting:

**Wendy D. May (Dallas)**

3. Approval of recipient for the Honorary Leon Jaworski Award:

**Jesus E. Amaya (Los Fresnos)**

4. Approval of renaming LeadershipSBOT President's Award to the Pedro M. Serrano Award [**Exhibit G**]

5. Approval of recipient for the Legal Services to the Poor in Criminal Matters Committee's Warren Burnett Award [**Exhibit H**]

**Stan Brown (Abilene)**

6. Approval of resolutions honoring: [**Exhibit I**]

**Charlye Farris, first African-American Woman Lawyer in Texas (1929-2010)**

II. **REPORTS:**

A. **Report from the Chair of the Board:**

Chair Pablo Almaguer reported that at the January meeting, the Board voted to conduct the Chair election by written ballot. Chair Almaguer explained the balloting process, and noted that if one candidate gets a majority of all votes cast, that candidate wins the election, and if no candidate gets a majority of all votes cast, a runoff election will be held between the two candidates getting the most votes. **After two rounds of voting were conducted, Chair Almaguer announced that Beverly Godbey has been named the 2011-12 Chair of the Board.** Godbey made remarks.

B. **Report from the President:**

President Terry Tottenham reported that more than 80 lawyers from the Office of the Attorney General took part in a free full-day training program on advanced trial skills for government lawyers. Texas Lawyers for Texas Veterans continues to expand as more local bar associations around the state commit to the initiative. Since the launch of the initiative last summer, more than 30 local bar associations have organized clinics. The Texas Access to Justice Commission celebrated its 10<sup>th</sup> anniversary with the Champions for Justice Gala, with proceeds benefiting civil legal

services for veterans for the second year in a row. President Tottenham shared a video that was played at the gala by keynote speaker Col. David Sutherland, about veterans and their mental health needs. The Texas Lawyers Assistance Program reported a significant increase in calls from lawyers and judges referencing the State Bar's Practicing Law and Wellness Initiative. TexasBarCLE is offering a free webcast on law practice management issues and basic skills on the third Thursday of each month this year as part of the initiative to help make new resources available to unemployed and underemployed lawyers. The theme for this year's YouTube contest was "The Difference a Lawyer Makes", which was a great way to engage the public and get students and citizens thinking creatively about the legal system, and the winning video entries were played.

Allan DuBois reported on the various speakers and events at the annual meeting in San Antonio in June.

President Tottenham reported on several action items the Ad Hoc Emergency Legislative Response Committee has taken that are being presented for ratification before the Board. The first involves a supplement to the Real Estate, Probate & Trust Law Section's legislative package concerning disclaimers of property under the Probate Code and Property (Trust) Code, and supporting a resolution supporting civil legal aid in Texas. The second involves allowing the Litigation Section to assert an independent position regarding three bills: HB 274 relating to attorney's fees, early dismissal, expedited trials, and the reform of certain remedies and procedures in civil actions; HB 2031 relating to the establishment of a voluntary compensation plan as an alternative to litigation; and HB 2661 relating to settlement of certain civil actions. The third item involves three bills the State Bar is opposing – HB 1072 relating to State Bar membership dues exemption for an attorney employed by the Office of the Attorney General (in an effort to reduce the AG's budget); HB 2307/SB 1476 relating to the MCLE requirements for an attorney employed in the executive branch of state government, which would exempt lawyers representing the state of Texas from fulfilling their MCLE requirements; and HB 2919 relating to State Bar rules adopted or amended by the Supreme Court, which would codify the referendum process. KaLyn Laney reported that HB 2919, and a few other bills, appear to be born out of the referendum.

**President Terry Tottenham moved for approval of ratification of actions of the Ad Hoc Emergency Legislative Response Committee taken pursuant to Policy Manual Section 8.01.07(C): [Exhibit J]**

- 1) Approving a supplement to the REPTL's legislative package, and a resolution supporting increased funding for legal aid in Texas; Yvette Ostolaza seconded. Motion carried.**
- 2) Authorizing the Litigation Section to assert its own position under Policy Manual Section 8.01.07(C) concerning HB 274 as substituted, HB 2031, and HB 2661; Brad Hancock seconded. Motion carried.**
- 3) Authorizing the State Bar to take a position in opposition to HB 1072 relating to SBOT membership dues for an attorney employed by the Office of the Attorney General, HB 2307/SB 1476 relating to minimum continuing legal education requirements for an attorney employed in the executive branch of state government, and HB 2919 relating to State Bar rules adopted or amended by the Supreme Court; Annette Raggette seconded. Motion carried.**

President Tottenham reported on the Ad Hoc Committee to Select Minority Directors, noting that this year it was chaired by Yvette Ostolaza, and the committee received a number of excellent nominations to consider. President Tottenham has selected Judge Jo Ann Reyes of Fort Worth to fill the next Minority Director position on the Board, and he discussed her background information.

**President Tottenham moved for approval of the appointment of Judge Jo Ann Reyes as a Minority Director to the Board of Directors, for a three-year term effective Annual Meeting 2011 through Annual Meeting 2014; Mike Gregory seconded. Motion carried. [Exhibit K]**

President Tottenham thanked the people who worked on the resolution honoring Charlye Farris, the first African-American woman lawyer in Texas, which was approved earlier on the consent agenda.

C. Report from the President-elect:

President-elect Bob Black reported on the budget information that has changed since the January Board meeting. There has been a transfer of \$36,840 from the \$1.75 million 5-year allotment to the Student Loan Repayment Assistance Program, which increases it to \$386,840 and will fully fund the program for next year. Also, the ATJ's budget for FY 2011-12 has been increased by \$76,000 in order to fund a new salaried position for a development coordinator. The funding was transferred from other departments that had eliminated positions. Primary duties of the new position will be to help find money from additional sources. The budget hearing with the Supreme Court for final budget approval is scheduled for May 9.

**On behalf of the Budget Committee, President-elect Black moved for approval of the SBOT 2011-12 proposed budget for presentation to the Supreme Court of Texas; no second needed. Motion carried. [Exhibit L]**

President-elect Black reported that the State Bar Act requires that the Bar Board conduct a comprehensive review of the standing committees biennially to determine whether there is a continued need for each committee and whether there is unnecessary overlap of committee activities. The Committee Review Task Force has completed its review of all standing committees, and concludes that there is a continuing need for all standing committees and that they are working on mutually exclusive reports. Additionally, the task force made several recommendations - a name change of the PJC Family Committee to the PJC Family and Probate Committee; amending the purpose clause of the Public Affairs Committee to highlight how the committee serves as a conduit to the news media; a continued review of the Paralegal Committee over the next two years to determine whether it is performing its oversight function and to determine whether it is doing activities other than its annual CLE seminar; and a continued review of the Laws Related to Immigration and Nationality Committee and the Women in the Profession Committee to determine any overlap with its corresponding sections.

**President-elect Black moved for approval of the recommendations of the Committee Review Task Force, to be effective in conjunction with the Bar's fiscal year; Toni Nguyen seconded. Motion carried. [Exhibit M]**

D. Report from the Immediate Past President:

Immediate Past President Roland Johnson reported on ABA Days in Washington D.C. and federal legal aid funding, and bills pending in the Texas legislature relating to ATJ funding.

E. Commission for Lawyer Discipline/Chief Disciplinary Counsel Update:

Betty Blackwell gave the quarterly report of the Commission and reported on grievance statistics, the grievance referral program, prevention efforts for impaired respondent rehab, and gave a breakdown of disciplinary actions. **[Exhibit N]**

F. Administration Committee:

**Closed Session:** At 10:23a.m., Chair Almaguer announced that the Board of Directors would meet in closed session as authorized by Texas Government Code, Section 551.071 for the purpose of consultations with legal counsel concerning pending or contemplated litigation regarding employment matters, including *Miller v. The State Bar of Texas*.

**Open Session:** Upon return to open session at 10:48a.m., Chair Almaguer reconvened the open session and announced that during the closed session, only matters relating to consultations with legal counsel concerning pending or contemplated litigation regarding employment matters, including *Miller v. The State Bar of Texas*, were discussed. No action was taken in closed session.

*Justice Phil Johnson left the room during the closed session.*

G. Performance Measures & Strategic Planning Subcommittee:

Susan Fisher reported that the State Bar Act requires the State Bar to adopt a revised strategic plan every two years, which happens every two years at the April Board meeting. The subcommittee has redlined the strategic plan based on input received at the board retreat in July, and the changes are refinements rather than wholesale changes.

**On behalf of the Performance Measures & Strategic Planning subcommittee, Susan Fisher moved for approval of the adoption of the updated SBOT strategic plan; no second needed. Motion carried. [Exhibit O]**

President Tottenham discussed the referendum and how to reach out to constituents to get more feedback on the referendum, as well as input from the Supreme Court to see how to move forward. Several Board members also discussed bringing more people into the process early on, making it a shorter process and focusing on a smaller rewrite of the disciplinary rules.

H. Audit & Finance Committee:

Warren Cole reported that the March financials show that the General Fund net revenues over expenditures totaled almost \$2.9 million at the end of March, which results in a positive budget to actual net variance of 158%. The net revenue for TexasBarCLE as of the end of March was over \$3.8 million, and TexasBarCLE continues to find ways to reduce costs. Cole noted that the State Bar's investment portfolio is fully invested in U.S. treasuries, federal agency securities and money market mutual funds, and representatives from PFM Asset Management LLC continue to work to place investments in those areas that will produce the highest yields, despite very low interest rates. PFM has been the State Bar's investment manager since June 1, 2006, and its current 2-year contract ends May 31, 2011. Since the Public Funds Investment Act allows the governing body of an agency to extend or renew an investment manager's contract, the Audit & Finance Committee is recommending a one-year extension of its current contract. The committee is also recommending approval of a new 4-year internal control audit plan developed by Padgett & Stratemann CPA firm, which provides for an annual audit of State Bar departments on a rotating basis.

**On behalf of the committee, Warren Cole moved for approval of the following: [Exhibit P]**

- 1) Acceptance of the quarterly investment report for the period ending February 28, 2011; no second needed. Motion carried.**
- 2) One-year extension of PFM Group's Contract for Investment Management Services; no second needed. Motion carried.**
- 3) Four-year internal control audit plan; no second needed. Motion carried.**

I. DCAAP/Client Security Fund Subcommittees:

John Jansonius reported that the subcommittee has received 120 applications this year, and has approved 86 so far and granted \$639,468 to claimants. The fund is required to maintain a \$3 million reserve, and there is approximately \$550,000 left for payment of funds. The claim level is up this year but the fund is in good financial shape.

J. Nominations & Elections Subcommittee:

Immediate Past Chair David Fisher reported that the President-elect election candidates have run great campaigns, and the elections will end on Monday, May 2nd. 20,553 attorneys have voted in the election so far, and there are three contested races this year, District 6 Place 4, District 11 and District 12. **[Exhibit Q]** Two things the N & E subcommittee will be looking for the future are the use of social media in campaigning for President-elect, and campaign rules for district director elections.

K. Policy Manual Subcommittee:

Arnold Aguilar discussed the revisions to the Policy Manual Sections 1.12.04, 1.12.05 and 1.12.07 concerning meetings of the Board, and the revisions are more broad and in better compliance with the Open Meetings Act and the State Bar Act. Sections 1.15.04-1.15.05 concern meetings of the Executive Committee, and are also in better compliance with the State Bar Rules and mirror the provision for the Board emergency meetings. Sections 4.01.02 and 4.01.04 concern the appointment and terms of members of standing and special committees, as well as Sections 4.03.01-4.03.03 which set out criteria for removal of committee members and filling vacancies.

**On behalf of the Policy Manual subcommittee, Arnold Aguilar moved for approval of the proposed revisions to Board Policy Manual section 1.12 concerning meetings of the Board, section 1.15 concerning meetings of the Executive Committee, and sections 4.01 and 4.03 concerning members of standing and special committees; no second needed. Motion carried. [Exhibit R]**

L. Member Services and Education:

Talmage Boston reported that the joint PDP/CLE retreat was held on April 8. The TexasBarCLE website is being constantly updated, and TexasBarBooks has released great new books that are receiving national attention. Pam Gilbert reported that the Beneplace website had 10,000 views in November and that staff will continue to monitor it. Steve Benesh reported that the Technology Oversight subcommittee received reports on the CDC Case Management System procurement and the Client Security Fund system procurement, and the entire project is within the overall projected budget. The Technology Oversight subcommittee anticipates final agreements by the end of May.

M. Section Representatives to the Board Committee:

Dan Micciche reported that two new Section Representatives were elected at the Council of Chairs meeting held on April 15, Michele Wong Krause from Dallas and Susan Nelson from Waco. Both are three-year terms that will start at the Annual meeting in June.

N. Report from Women in the Profession Committee:

Judy Ney reported on the book "Rough Road to Justice", memoirs of women icons. Copies of the book were passed out to each Board member.

O. Supreme Court Liaison:

Justice Johnson reported that the Court is grateful for the way the State Bar and lawyers are being represented. The Court has been continuing to deal with electronic filing. They are also continuing to look at the disciplinary rules, and how to take an approach with the public's interests in mind as well as small firm and solo practitioners.

P. Federal Judiciary Liaison:

Judge Jorge Solis discussed the budget, and reported on the vacancies in various districts, noting that Rodney Gilstrap has been nominated to fill the eastern district vacancy.

Q. Judicial Section Liaison:

Judge Steve Smith reported on various bills the judges are concerned about, as well as Ethics Opinion 484 concerning campaign reimbursement.

R. Out-of-State Lawyer Liaison:

Scotty Holloman discussed the disciplinary rules and echoed the comments made earlier about the need to be inclusive early on in the process.

S. Texas Young Lawyers Association:

Jennifer Evans Morris reported on various projects of TYLA including “The Little Voice” public service project, “R-U-Safe”, Office-In-A-Flash, National Trial Competition, and Partnering for Pro Bono. TYLA will also be looking at social media issues for TYLA elections.

T. Affordable Legal Services Subcommittee:

Travis Sales introduced Professor Larry Spain from Texas Tech University School of Law and chair of the Legal Services to the Poor in Civil Matters Committee. Professor Spain reported on funding for legal services and pro bono contributions of lawyers and the committee’s study of increasing pro bono participation as well as plans to expand the LiveHelp program. Professor Spain thanked the Board for passing the Prime Partner resolution. Judge John Akard, President of the Lubbock County Bar Association, spoke on the importance of local banks and legal aid and thanked the Board for their support in passing the resolution. Justice Johnson reported on the Prime Partner program and the number of banks who have provided support for legal services to the poor. Justice Johnson along with Betty Balli Torres from the Texas Access to Justice Foundation presented awards to representatives from four prime partner banks.

U. Executive Director:

Michelle Hunter reported that State Bar staff raised \$3000 on a specially designated “jeans day” in February to help support civil legal aid, and in March staff collected various items to make 150 care bags that were distributed to homeless veterans through the Healthcare for Homeless Veterans Program in Austin. As part of the CIP process, a one-page “Cheat Sheet” that includes photos of officers and frequently asked questions was created in order to improve customer service at the State Bar. Hunter also presented the Employee of the Quarter Award to Tracy Nuckols, Project Manager for the Sections department, and Dan Micciche said a few words about Tracy.

There being no further business, the meeting was adjourned at 2:17p.m.

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<sup>1</sup> Exhibits A through R are available at [www.texasbar.com/bodcentral](http://www.texasbar.com/bodcentral) under Meeting Agendas and Minutes.