

**OFFICIAL MINUTES
STATE BAR OF TEXAS
BOARD OF DIRECTORS MEETING
Sheraton Fort Worth
Fort Worth, Texas
Friday, April 13, 2012**

The Board of Directors of the State Bar of Texas met in regular session on April 13, 2012 at the Sheraton in Fort Worth. Chair Beverly Godbey called the meeting to order at 9:00am, and Executive Director Michelle Hunter called the roll. A quorum of voting Board members was present. Rev. Larry Duggins from White's Chapel in Southlake led the invocation. Allan DuBois led the pledges to the U.S. and Texas flags.

Present:

Board Members: Immediate Past Chair Pablo Almaguer*, Tim Belton, President Bob Black, Roy Brantley, Virginia Campbell, Sylvia Cardona, Christina Melton Crain, Mark Daniel, Allan DuBois, Greg Dykeman, Damon Edwards, Becky Baskin Ferguson, President-elect Buck Files, Steve Fischer, Susan Fisher, Christopher Gilbert, Chair of the Board Beverly Godbey, Daniel Horowitz, Bert Jennings, John Kazen, Mark Kelly, Tim Kelly, TYLA President Natalie Cobb Koehler, Kyle Lewis, Mike McDonald, Jo Ann Merica, TYLA Immediate Past President Jennifer Evans Morris, Toni Nguyen, Yvette Ostolaza, Andy Payne, Tommy Proctor, Annette Raggette, Barrett Reasoner, Judge Jo Ann Reyes, TYLA President-elect C.E. Rhodes, Ricky Richards, Dr. Eliseo Ruiz, Travis Sales, Steve Schechter, Frank Stevenson, Cindy Tisdale, Immediate Past President Terry Tottenham, John Trevino, Ike Vanden Eykel, David Whittlesey

Liaisons*: Scotty Holloman, Justice Phil Johnson, Judge Liz Lang-Miers

Section Representatives*: Luis Garcia, Steve James, Susan Nelson, Brian Webb

Excused Absences: Judge Fred Biery**, David Copeland, Stewart Gagnon*, Cori Harbour-Valdez, Michele Wong Krause*, Judge Larry Meyers*

(* = nonvoting)

(** = Judge Terry Means attended in place of Judge Fred Biery)

I. CONSENT AGENDA ITEMS

Upon motion properly made by Toni Nguyen and seconded by Christina Melton Crain, the following actions were taken regarding the Consent Agenda items:

A. Approval of minutes of Board meetings conducted on *January 20, 2012*

B. Ratification of actions taken at the following Executive Committee meetings:

March 27, 2012: Approved minutes of the January 5, 2012 Executive Committee meeting

C. Approval of appointments by the President to the following entities:

Commission for Lawyer Discipline:

1) for term effective September 1, 2012 through August 31, 2013:

Chair: Ronald E. Bunch (Waxahachie)

2) for three-year terms effective September 1, 2012 through August 31, 2015:

Pablo Almaguer (Edinburg)

Guy Harrison (Longview)

Law Focused Education, Inc., for two-year terms effective June 1, 2012 through May 31, 2014:

Hector Beltran (El Paso)
Cindy Johnson (Fort Worth)
Ted Kerr (Midland)
Terry Marrs (Bronte)
Brenda Richardson (Ingleside)
Andrew Yoder (Houston)
Wendy Humphrey (Lubbock)

Texas Center for Legal Ethics, for three year terms effective June 1, 2012 through May 31, 2015:

Lloyd Garland (Lubbock)
Patti Gearhart Turner (Ft. Worth)
Sam David Smith (Houston)

Texas Legal Protection Plan, for three year terms effective June 1, 2012 through May 31, 2015

Teri Danish (Houston)
Patricia Hayes (Pflugerville)

Out of State Liaison to the State Bar Board of Directors, for three year term effective Annual Meeting 2012 through Annual Meeting 2015:

Harry Paul Weitzel (Irvine, CA)

Resolutions Committee, for terms expiring at the 2012 Annual Meeting:

Officers:

Chair: SBOT Immediate Past Chair of the Board
- **Pablo Almaguer (Dallas)**
Vice-Chair: TYLA Chair
- **Alfonso Cabanas (Austin)**
Secretary: Local Bar Leaders Committee Chair
- **Carlos Cardenas (El Paso)**
Parliamentarian: Beverly Godbey
Alternate: Barrett Reasoner
Alternate: Bert Jennings

Review Committee:

Pablo Almaguer (Dallas)
W. Thomas "Tommy Proctor" (Houston)
Damon Edwards (Houston)

- D. Approval of State Bar Committees, Chairs, Co-Chairs, Vice Chairs, Co- Vice Chairs, and members to serve during the year 2012-13 per State Bar Rules, Art. VIII, Section 1B
- E. Approval of request by the Aviation Law Section to increase its dues from \$15 to \$20 annually
- F. Approval of recipients for the pro bono awards to be presented at the Annual Meeting: **[Exhibit A]**¹

- 1) Pro Bono Award: **Human Rights Initiative's William O. Holsten, Jr. Pro Bono Program**
- 2) Frank J. Scurlock Award: **John O'Connor**
- 3) The J. Chrys Dougherty Legal Services Award:
Mickey Baden
Julie Balovich
- 4) W. Frank Newton Award: **Patton Boggs, LLP**
- 5) Pro Bono Coordinator Award: **Pete J. Fierro**
- 6) Judge Merrill Hartman Pro Bono Judge Award: **Justice Phylis Speedlin**

G. Approval of recipient for the Legal Services to the Poor in Criminal Matters Committee's Michael K. Moore Award for Excellence in Research or Writing in the Area of Indigent Criminal Defense **[Exhibit B]**

Dr. Michael K. Moore

II. REPORTS

A. Report from the Chair of the Board:

Chair Beverly Godbey reported that at the January meeting, the Board voted to conduct the Chair election by written ballot. Chair Godbey explained the balloting process, and noted that in the event of a tie, the Chair is entitled to cast a vote to break the tie. **After a round of voting was conducted, Chair Godbey announced that Frank Stevenson has been elected the 2012-13 Chair of the Board.** Stevenson made remarks.

B. Report from the President:

President Bob Black acknowledged former Chairs of the Board from Fort Worth and other Board members who have been recognized recently for distinguished awards. The Redistricting task force, chaired by past president Roland Johnson, is continuing its work looking at Bar districts and distribution of Board members and population throughout the state. The task force anticipates presenting proposed recommendations for approval at the Board meeting in June.

President Black applauded the members of the SOLUTIONS 2012 task force, co-chaired by Tim Belton and Tom Vick. Tim Belton noted that it was a privilege to be part of the process, and expressed that while the report is the result of the work of the task force as a whole, the cover letters are from the co-chairs. Belton reported that the task force was divided into two work groups; Indigent Pro Se Litigants, and Indigent Pro Se Forms. The litigants work group had a broad topic area to consider, which was the issue of poor citizens seeking access to a judicial system that many believe is underfunded at the same time that programs that provide free lawyers are also facing severe budget cuts. The forms work group looked at the development of standardized forms for use by indigent pro se litigants and issues surrounding that proposal.

Tim Belton moved for the acceptance of the SOLUTIONS 2012 report and approval to forward it on to the Supreme Court of Texas and the Supreme Court Advisory Committee; President Black seconded. Motion carried unanimously. [Exhibit C]

President Black asked President-elect Buck Files to discuss the budget. President-elect Files noted that there were two members of the public at the public hearing of the budget on March 27, and there have been no changes to the budget since the January Board meeting.

On behalf of the Budget Committee, President-elect Buck Files moved for approval of the SBOT 2012-13 proposed budget for presentation to the Supreme Court of Texas in May; no second needed. Motion carried unanimously. [Exhibit D]

President Black reported that the Judicial Section sought and received permission from the Ad Hoc Submission Committee to respond to an AG request for comment on a matter involving a dispute between the Van Zandt County Commissioner's Court and the County Court at Law Judge regarding the county court reporter's salary and employment status. The Commissioners Court overruled the Judge's hiring of a full-time court reporter, and the Van

Zandt County DA requested an opinion from the AG regarding who has the final authority. The Judicial Section wants to weigh in because it believes the Commissioners Court interfered with the court's inherent power to preserve its judicial function, and the Section sees the issue as having statewide implications if the AG were to rule that the judge did not have this inherent power. The Executive Committee ratified the Ad Hoc Submission Committee's approval of the request at its March 27th meeting.

President Black moved for approval of the ratification of the Ad Hoc Submission Committee's approval to respond to the Attorney General's request for comment on Opinion RQ-1039-GA, pursuant to Policy Manual Section 8.02.04(C); Immediate Past President Terry Tottenham seconded. Motion carried.

President Black reported that the Ad Hoc Committee to Select Minority Directors, chaired by Toni Nguyen, received a number of excellent nominations, and conducted interviews in January. The committee submitted two candidates for consideration, and President Black selected Jaime Balli from Edinburg to fill the next Minority Director position on the Board. There was discussion on the process of appointing a minority director to the Board, and it was suggested that it be an elected position instead of an appointment by a special committee. Toni Nguyen reported on how the Ad Hoc Committee members are comprised, the criteria for the position, and the rigorous selection and interview process for minority director.

President Black moved for approval of the appointment of Jaime Balli as a Minority Director to the Board of Directors, for a three-year term effective Annual Meeting 2012 through Annual Meeting 2015; Damon Edwards seconded. Motion carried. [Exhibit E]

Closed Session: At 9:49a.m., Chair Godbey announced that the Board of Directors would meet in closed session as authorized by Texas Government Code, Section 551.074 to deliberate concerning a personnel matter.

Open Session: Upon return to open session at 10:35a.m., Chair Godbey reconvened the open session and announced that during the closed session, only matters relating to deliberations concerning a personnel matter were discussed. No action was taken in closed session.

C. MCLE Committee:

Mark Sessions and David Smith reported that CLE programs are changing as technology changes, and the proposed changes to the accreditation standards for CLE activities reflect that. The major change involves no accreditation of a CLE activity for MCLE if it is an activity that teaches non-legal skills such as general use of hardware, software, and marketing or social media networking skills. Sessions noted that an Ad Hoc Committee was formed to study the proposed changes.

Steve Fischer moved for approval of the proposed changes to MCLE Accreditation Standards for CLE Activities; Christina Melton Crain seconded. Motion carried. [Exhibit F]

D. Insurance/Member Benefits Subcommittee:

Yvette Ostolaza reported that the subcommittee assisted the SBOTIT in its marketing to members by buying an iPad to give away in a drawing for members who requested a quote. The subcommittee has received a number of complaints about the need for a lower cost health insurance, and Ostolaza asked the Insurance Trust Board to consider issuing an RFP for health insurance, since the last time the Trust did a competitive bidding process was in 1974. The subcommittee is continuing to push for ABA certification for the State Bar's lawyer referral program in order to obtain a discount on basic PLI coverage premiums. Ostolaza reported on other member benefits the Bar offers, including discounts on FedEx, car rentals, and Brooks Brothers, as well as looking into a credit union benefit.

E. Report from the President-elect:

President-elect Files reported that he is working on appointments to standing committees, and explained part of the appointment process regarding new appointments and current members not being reappointed in various geographic areas in Texas. [Exhibit G] President-elect Files expressed his concerns about people getting the wrong impression

of the Bar, and that it's important to have pride in the Bar and to show members what great benefits the Bar has to offer.

F. Report from the Immediate Past President:

Immediate Past President Terry Tottenham noted that the Texas Lawyers for Texas Veterans initiative did not receive the American College of Trial Lawyers' Emil Gumpert award, but did receive a \$20,000 award to go towards the initiative.

Immediate Past President Tottenham reported that the election began on April 2nd. There are 10 members of the Board whose terms are expiring in June, and out of those 10 positions, six of these races are contested, with three people running for the one position open in District 7. The elections for President-elect and district directors will end on May 1 and we will have the results shortly thereafter. **[Exhibit H]**

G. Policy Manual Subcommittee:

Jo Ann Merica reported on the proposed revisions to the Policy Manual concerning Part V. Merica noted that the proposed revisions have been reviewed by the Section Representatives to the Board Committee and the Council of Chairs, and she outlined the substantive revisions concerning Sections, Section Representatives to the Board Committee, Council of Chairs, and Divisions.

On behalf of the Policy Manual subcommittee, Jo Ann Merica moved for approval of the proposed revisions to Part V. of the Policy Manual concerning Sections and Divisions; no second needed. Motion carried. [Exhibit I]

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

Ron Bunch reported on the sanctions statistics, the grievance symposium in May, and district grievance committee appointments. Bunch stressed the importance of considering area of practice when making grievance committee member appointments. **[Exhibit J]**

I. Texas Young Lawyers Association:

TYLA President Natalie Cobb Koehler highlighted recent and upcoming activities of TYLA, including Law Student Outreach Committee, "Attorneys Without Borders", a Supreme Court trip to Laredo for a diversity discussion and opportunity to hear oral arguments, the National Trial Competition, Central Texas High School Senior Day, and the San Antonio Council on Alcohol and Drug Abuse.

J. Administration Committee:

Travis Sales reported that the new San Antonio lease with Travis Park Plaza has been executed, and negotiations are in process with the Federal Reserve to mitigate expenses for unilaterally breaking the lease on the San Antonio regional office lease. The Employment/Salary/Evaluation subcommittee is working on implementing the revised Affiliated Entities Board Policy as well as looking at the LGBT Law Section's proposed revisions concerning several policies within the State Bar's Employee Handbook.

K. Audit & Finance Committee:

Bert Jennings reported that at the end of February, the general fund net revenues over expenditures totaled almost \$2.8 million. This is a positive budget to actual net variance of \$1.78 million, or 183%. The State Bar's investment portfolio is invested in U.S. treasuries, federal agency securities, high quality commercial paper and AAAM-rated money market mutual funds, and overall the portfolio is highly liquid and maintains the highest credit quality. The State Bar issues an RFP for auditing services every three years. Maxwell Locke & Ritter LLC has been serving as the State Bar's financial auditor, and Padgett, Stratemann & Co. has been serving as the internal control auditor. After comparing relevant factors, the Audit & Finance Committee agreed that these two firms are the best for the Bar; however, the roles will be reversed so that Padgett & Stratemann performs the financial audit and Maxwell Locke &

Ritter performs the internal control audit. The State Bar also issued an RFP for Investment Management Services in January. After analyzing responses, the Audit & Finance Committee agreed that the current investment firm of PFM Asset Investment LLC should continue to serve as the Bar's investment manager based on past performance and excellent professional service. Jennings noted that the Governmental Accounting Standards Board has issued a new statement, #54, and it changes the classifications of fund balance for governmental entities.

On behalf of the Audit & Finance Committee, Bert Jennings moved for approval of the following:

- 1) Acceptance of the PFM February 2012 quarterly investment report; no second needed. Motion carried.**
- 2) The selection of Padgett & Stratemann & Co as the State Bar's financial auditors, and Maxwell Locke & Ritter LLC as the State Bar's internal control auditors, for fiscal years 2011-12, 2012-13, and 2013-14; no second needed. Motion carried.**
- 3) The State Bar enters into a contract with PFM Asset Management LLC to serve as the State Bar's Investment Manager for fiscal years 2012-13 and 2013-14; no second needed. Motion carried.**
- 4) The revision to the State Bar's Investment Policy; no second needed. Motion carried.**
- 5) Resolution of the adoption of Governmental Accounting Standards Board (GASB) Statement #54; no second needed. Motion carried. [Exhibit K]**

L. DCAAP/Client Security Fund Subcommittees:

Mark Daniel reported that the Client Security Fund subcommittee met the day before, and the subcommittee has approved almost \$500,000 to claimants so far this year.

M. Member Services and Education Committee:

Virginia Campbell reported that the Appeals-Grants Review Subcommittee heard one appeal of a decision made by the Texas Board of Legal Specialization concerning Larry L. Warner, an attorney certified in Criminal Law. The subcommittee applies the substantial evidence standard in its consideration of appeals, and the appellant carries the burden of proof to show that the decision of the TBLS is not supported by substantial evidence. After considering the evidence and hearing oral arguments by Mr. Warner and his counsel and by TBLS, the subcommittee found that substantial evidence existed to support the TBLS decision.

On behalf of the Appeals-Grant Review Subcommittee, Virginia Campbell moved for approval of the action of the subcommittee affirming the decision of the Texas Board of Legal Specialization regarding suspending Larry L. Warner's specialization certification for six months and that the Chair of the Appeals-Grants Review Subcommittee issue a letter to Mr. Warner informing him of the Board of Directors' decision; no second needed. Motion carried. [Exhibit L]

PDP Subcommittee Chair Allan DuBois reported that the joint PDP/CLE Committee meeting will be held in two weeks, and that attendance and participation in TexasBarCLE has gone up this year.

Technology Oversight Subcommittee Chair Damon Edwards reported that the subcommittee is working on several ongoing technology projects, including the CDC Case Management System, the expansion/improvement of the wireless network in the Law Center, and future upgrades to the current telephone system. The subcommittee also approved moving forward with the routine replacement of personal computer equipment in the Law Center.

N. Child Abuse and Neglect Committee:

Vicki Spriggs from the Court Appointed Special Advocates reported on child abuse and the need for CASA volunteers.

O. Federal Judicial Liaison:

Judge Terry Means gave a report in Judge Fred Biery's absence, and reported on budget cuts in the judicial system and the resulting high rate of retirements and resignations.

P. Supreme Court Liaison:

Justice Phil Johnson reported that the Supreme Court enjoyed their trip to Laredo in February for "Attorneys Without Borders", and it was very well received. Justice Johnson noted that the major concern of the Court on the forms issue is that we serve low income Texans the best way we can, but don't harm the work that's been done on Access to Justice.

Q. Section Representatives to the Board Committee:

Brian Webb thanked everyone who worked on the SOLUTIONS 2012 task force and noted that it is a major move forward.

R. Judicial Section Liaison:

Judge Elizabeth Lang-Miers reported on the Judicial Section and their strong membership, and thanked the Board for their recent support.

S. Out-of-State Lawyer Liaison:

Scotty Holloman reported that he has been speaking to lawyers in New Mexico about the forms issue, and that it is a forms-driven state.

T. Executive Director:

Michelle Hunter made remarks about Cory Squires from the Research and Analysis department, and presented him with the Employee of the Quarter Award.

There being no further business, the meeting was adjourned at 12:42p.m.

¹ Exhibits A through L are available at www.texasbar.com/bodcentral under Meeting Agendas and Minutes.