

**OFFICIAL MINUTES
STATE BAR OF TEXAS
BOARD OF DIRECTORS MEETING
Hilton Anatole
Dallas, TX
Wednesday, June 19, 2013**

The Board of Directors of the State Bar of Texas met in a regular session on June 19, 2013 at the Hilton Anatole in Dallas. Chair of the Board Frank Stevenson called the meeting to order at 9:00a.m., and Executive Director Michelle Hunter called the roll. A quorum of voting Board members was present. Roy Brantley delivered the invocation. Becky Baskin Ferguson led the pledges to the U.S. and Texas flags.

Present:

Board Members: David Alders, Robert Aldrich, Jaime Balli, Immediate Past President Bob Black, TYLA President Kristy Blanchard, Larry Boyd, Roy Brantley, Virginia Campbell, Sylvia Cardona, Greg Dykeman, Sara Dysart, Becky Baskin Ferguson, President Buck Files, Laura Gibson, Christopher Gilbert, Immediate Past Chair Beverly Godbey*, Robert Guest, Cori Harbour-Valdez, Daniel Horowitz, Louis Iselin, John Kazen, Mark Kelly, Tim Kelly, Roger Key, Natalie Cobb Koehler, Mike McDonald, Christina Melton Crain, Jo Ann Merica, Toni Nguyen, Andy Payne, Barrett Reasoner, Judge Jo Ann Reyes, TYLA President C.E. Rhodes, Ricky Richards, Tom Riney, Dr. Eliseo Ruiz, Steve Schechter, Denise Scofield, Chair of the Board Frank Stevenson, President-elect Lisa M. Tatum, David Teuscher, M.D., Cindy Tisdale, John Trevino

Liaisons*: Judge Micaela Alvarez, Judge Alfonso Charles, Justice Phil Johnson, Judge Michael Keasler, Hap Weitzel

Section Representatives*: Luis Garcia, Steve James, Michele Wong Krause, Susan Nelson, Gary Nickelson, Scott Rothenberg

Excused Absences: *Steve Fischer, Larry McDougal, Ike Vanden Eykel, David Whittlesey*

(* = nonvoting)

I. CONSENT AGENDA ITEMS

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

A. Approval of minutes of Board meetings conducted on *April 12, 2013*

B. Items from the 2012-13 President:

Approval of appointments to the following entity:

Texas Center for Legal Ethics, for a three-year term effective June 1, 2013 through May 31, 2016

Susan Cuellar (Dallas)

C. Items from the 2013-2014 President:

Approval of appointments to the following entities:

1. **College of the State Bar Board**, for three-year terms effective June 1, 2013 through May 31, 2016:

Hon. Patricia Alvarez (Laredo)

Dylan Drummond (Austin)

Susanne Bonilla (Corpus Christi)
Morgan Broaddus (El Paso)
Alfonso Cabanas (San Antonio)

John Grace (Lubbock)
Veronica Jacobs (Houston)

2. **Section Representative to the Board Committee:**

For a one-year unexpired term effective Annual Meeting 2013 through Annual Meeting 2014:

Richard Melamed (Medium-sized Section, Houston)

For three-year terms effective Annual Meeting 2013 through Annual Meeting 2016:

Alison Colvin (Medium-Sized Section, Brownsville)

Grant M. Scheiner (Large-Sized Section, Houston)

3. **State Bar Insurance Trust**, for terms effective July 1, 2013 through June 30, 2016:

Deborah Bullion (Sugarland)

Viola G. Garza (McAllen)

4. **Texas Access to Justice Commission:**

for three-year terms effective June 1, 2013 through May 31, 2016:

Cristy A. Arscot (Tyler)

Harriet Miers (Dallas)

for two-year terms effective June 1, 2013 through May 31, 2015:

Andy Kerr (San Antonio)

Tim Mountz (Dallas)

5. **Texas Access to Justice Foundation**, for three-year terms effective September 1, 2013 through August 31, 2016:

Becky Baskin Ferguson (Midland)

Terry Tottenham (Austin)

6. **Texas Board of Legal Specialization**, for three-year terms effective July 1, 2013 through June 30, 2016:

Ben Hall, III. (Houston)

Hal Moorman (Brenham)

Stanley Schneider (Houston)

Julie Springer (Austin)

7. Approval of appointments to the following standing committees (per State Bar Rules, Art. VIII, Section 1B):

for three-year terms effective on the adjournment of Annual Meeting 2013 through the adjournment of Annual Meeting 2016:

Diversity in the Profession

Ikeisha Rodriguez – Member (Houston)

Law Focused Education

Lisa Richardson – Member (Round Rock)

Local Bar Services

Tommy Coleman – Member (Austin)

Paralegals

Pamela Young – Public Member (Richardson)

Keith Maples – Member (Austin)

Tammy Middleton – Member (Ft. Worth)

PJC Business Consumer and Employment

Mark Kincaid – Member (Austin)

Pattern Jury Charges Oil and Gas

Allen Cummings – Member (San Antonio)

Ricardo E. Morales – Member (Laredo)

Elizabeth “Becky” Miller – Member (Austin)

Susan Richardson – Member (Midland)

for two-year terms effective on the adjournment of Annual Meeting 2013 through the adjournment of Annual Meeting 2015:

Pattern Jury Charges Oil and Gas

Pat Allison – Member (Houston)

Craig Haynes – Member (Dallas)

Mark Rodriguez – Member (Houston)

Texas Bar Journal Board of Editors

Diane V. De Vasto – Board Representative (Tyler)

for one-year terms effective on the adjournment of Annual Meeting 2013 through the adjournment of Annual Meeting 2014:

Council of Chairs

Patrick J. Maher – Chair (Fort Worth)

Audrey F. Moorehead – Vice Chair (Dallas)

Laws Relating to Immigration and Nationality

Mario Ortiz – Advisory Member (San Antonio)

Pattern Jury Charges Oil and Gas

Pat Allison – Vice Chair (Houston)

Richard Brown – Member (Amarillo)

Charles Gordon – Member (Corpus Christi)

Lisa Vaughn Lumley – Member (Fort Worth)

Ricardo E. Morales – Chair (Laredo)

Hon. Donna Rayes – Member (Jourdanton)

Texas Bar Journal Board of Editors

Rebekah Steely Brooker - TYLA Repr. (Dallas)

Andrew Sefzik – Advisory Member (Frisco)

Web Services

Jason Coomer – Chair (Austin)

8. Other Items:

Approval of recipient for the Nancy Garms Award:

Keith L. Krueger

Approval of recipient for the Leon Jaworski Award:

Betsy Gonzales (Cedar Park)

Approval of recipient for the Hon. Leon Jaworski Award:

John McCaa (Dallas)

Approval of resolutions honoring: **[Exhibit A]**¹

- 1) **Harlow L. Sprouse**
- 2) **John F. Sutton, Jr.**

II. REPORTS

A. Report from the Chair of the Board: Chair of the Board Frank Stevenson made remarks about the significant contributions to communication and outreach efforts done by the Board this year, and specifically highlighted the number of presentations made to local and specialty bar associations by Steve Schechter. Chair Stevenson presented Schechter with the Outstanding Third Year Director Award, and he made remarks.

B. Report from the President: President Buck Files reported that he has appointed a Task Force on Aging Lawyer Issues, and past President Terry Tottenham will be the chair. The task force will hold its first teleconference in late August. President Files traveled almost 37,000 miles this year, met with 372 judges, visited 30 courthouses, presented at 12 local bar associations, and went to five law school events. President Files thanked the Board for their support this year, especially in communications efforts, noting that the Board met his challenge to pass the word about the many benefits and services the Bar provides to the lawyers of Texas. President Files referred to comments that were recently posted on the Facebook page, “Making the State Bar Relevant”, and remarked that such comments have no place on the Board of Directors or in the legal profession.

President Files presented Chair Stevenson and Executive Director Michelle Hunter each with a Presidential Citation for their leadership, support and friendship over the past year.

1) **Closed Session:** At 2:05p.m., Chair Stevenson announced that the Board of Directors will meet in closed session as authorized by Texas Government Code, Section 551.074 for the purpose of discussing the evaluation, duties and compensation of the Executive Director.

2) **Open Session:** Upon return to open session at 2:25p.m., Chair Stevenson announced that only matters relating to the evaluation, duties and compensation of the Executive Director were discussed. No action was taken in closed session.

[In the closed session the board discussed and recommended that the board approve a 5 percent salary increase for executive director Michelle Hunter to be effective June 1, 2013.]

Chair Stevenson reminded all those that participated in the closed session that those discussions are confidential and should not be shared.

In open session, Greg Dykeman moved for approval to adopt the recommendations discussed in the closed session regarding the Executive Director's compensation; Larry Boyd seconded. Motion carried.

C. Report from the Immediate Past President: Immediate Past President Bob Black made remarks about his years on the Board and on the continued need for outreach to get the message out about the mission of the State Bar and what the Bar does for the lawyers of Texas. Immediate Past President Black also thanked the public members, Section Representatives, judicial liaisons, and State Bar staff for their hard work.

D. Report from the President-elect: President-elect Lisa M. Tatum reported on solo and small firm outreach initiatives planned for this year. A pilot program event will be held in McAllen in September for solos and small firms that will include a free, two-hour CLE involving updates about the legislative sessions. A reduced cost CLE program for solo and small firm lawyers will be held in Dallas/Fort Worth and Houston in the fall, with topics such as legislative and case law updates, valuable technology for small firms, ethics, and trust account management. President-elect Tatum also reported on an improved communications plan, including a weekly media highlight that will be sent to all members each Friday, a job flash promoting employment opportunities for Texas attorneys sent to all members every two weeks, a formal twitter schedule, a member services and benefits monthly email, and the Executive Director report. Also, a new addition to the social media suite is Texas Bar TV, a video blog designed to provide informational video clips in order to communicate with our members.

President-elect Tatum also reported that the Supreme Court approved the FY 2013-14 budget and there have been no changes since April.

E. Nominations & Elections Subcommittee: Immediate Past President Black reported that 30% of members voted in the election this year, and it was an impassioned president-elect race with three candidates. Immediate Past President Black made remarks about the need for our rules to adapt to the use of social media, and the balance between the use of social media and first amendment rights. Black asked that we not look at the difficult months that have just passed, but take the positives out of it and move into a future where all lawyers in Texas believe and understand the importance of a unified, mandatory Bar and our role in the delivery of legal services to the citizens of Texas. **[Exhibit B]**

F. Commission for Lawyer Discipline/Chief Disciplinary Counsel Update: Ron Bunch reported on disciplinary sanctions, attorney's fees collections, new online grievance filing, and the grievance referral program. President Files presented Ron Bunch and Gary Cobb with citations for their service on the Commission for Lawyer Discipline. **[Exhibit C]**

G. Texas Young Lawyers Association: TYLA President C.E. Rhodes reported on the TYLA activities over the past year, and on new resources for service to the public and services to members.

H. Administration Committee: Jo Ann Merica thanked the chairs of all the subcommittees under the Administration Committee. Tim Kelly reported that the Employment/Salary/Evaluation subcommittee conducted detailed reviews of four of the State Bar Affiliated Entities, SBOTIT, TBF, TCLE, TLPP, under Board Policy 1.17. The recommended actions from the subcommittee have been taken for SBOTIT, TBF, and TCLE. After reviewing TLPP, the declining number of participants and participating attorneys has been noted, and TLPP has hired a marketing development person to generate additional business. Three proposals were received and reviewed for the career transition services, and staff met with each of the consultants before making a selection. A custom developed day-long in-person seminar for participants in Houston will be held in November, and an online version will be available January 1, 2014. The seminar content will be geared towards attorneys interested in alternative careers.

I. Audit and Finance Committee: Barrett Reasoner reported that as of April 30, the general fund had a positive net revenue over expenditures and transfers of over \$3.2 million. The Bar exceeded its budgeted net revenues over

expenditures target by over \$1.9 million. While the April numbers look very good, the month of May can be the Bar's biggest expenditure month, due to year-end adjustments. The State Bar financial audit will be conducted by Padgett, Stratemann & Co., LLP and is scheduled to begin on August 12, and the internal control audit, conducted by Maxwell Locke & Ritter, is scheduled to begin also on August 12. **[Exhibit D]**

J. Client Security Fund Subcommittee/DCAAP Subcommittee: Virginia Campbell reported that the Client Security Fund subcommittee considered 132 applications this year and approved 110, for an amount of over \$929,000. This is an all-time record for money paid out of the fund, and a 42% increase over the last year. Ricky Richards reported that he is proud of both President Files for his remarks and President-elect Tatum for her service to the state.

K. Appeals/Grants Subcommittee: Toni Nguyen reported that the Appeals/Grants Review subcommittee heard two appeals recently, one related to the non-accreditation of a CLE course, and the other related to the suspension of Board certification by the Texas Board of Legal Specialization. In the first appeal, the appellant attorney submitted a CLE course to the MCLE Committee entitled "17th Annual Law Firm Leaders Forum" that was denied accreditation by the committee because it did not meet the Accreditation standards pertaining to Law Practice Management. 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 MCLE Committee is not supported by substantial evidence. The subcommittee unanimously upheld in part, and reversed in part, the MCLE Committee's decision. The second appeal was from an attorney who appealed his suspension of board certification from TBLS. The appellant agreed to a Judgment of Probated Suspension with the Commission for Lawyer Discipline pertaining to violations of the TDRPC and received a one year fully probated suspension. As a result, TBLS voted to suspend the attorney's board certification for a period of one year. Based on a substantial evidence standard, the subcommittee unanimously upheld the decision by the Texas Board of Legal Specialization to suspend the Board certification for the appellant.

On behalf of the Appeals/Grants Review Subcommittee, Toni Nguyen moved for approval of following recommendations:

- 1) To uphold the decision of the MCLE Committee as to 1.5 hours of CLE credit, and to reverse in part the decision of the MCLE Committee as to 4.5 hours of CLE credit; no second needed. Motion carried.**
- 2) To uphold the decision of the Texas Board of Legal Specialization to suspend the Board certification of the appellant for one year; no second needed. Motion carried. [Exhibit E]**

L. Insurance/Member Benefits Subcommittee: Steve Schechter outlined the proposed health program MEWA (Multiple Employer Welfare Association), a self-insured health plan consisting of active in-state member firms with at least one full-time employee who is not an owner. A non-binding letter of interest and detailed plan information was sent to all active attorneys of the Bar, and members had from June 3 to June 17 to respond. 1700 firms and individuals responded, indicating a participation rate of over 10,687 employees. The subcommittee determined that survey findings show sufficient interest to justify moving forward, and the subcommittee will issue request for proposals for administrative and PBM services, which will be reported at the next Board meeting in order to roll out by January 1, 2014.

M. Professional Development Subcommittee: Susan Nelson reported that the proposed changes to the policy manual deal with CLE and the book fund, in order to bring the policy manual into practice with the CLE department. Section 7.03 pertains to those who receive complimentary access to CLE courses and online classes, as well as a change to the amount of honorarium offered and approved for CLE speakers. Section 3.08 involves a change to how royalties are paid.

Sara Dysart moved for approval of the proposed changes to the Policy Manual Section 7.03 concerning professional development and Section 3.08 concerning special funds; Dr. Eliseo Ruiz seconded. Motion carried. [Exhibit F]

N. Technology Oversight Subcommittee: Luis Garcia reported that the final phase of the law center telephone system project has now been completed, which will provide new quality assurance features to the call centers. In June, a new feature of the CDC case management system which allows online grievance submission went live, and the Hatton Sumners Conference room upgrades are now complete. Also, in support of Access to Justice, the Bar arranged to donate more than 96 surplus computers during the month of May to legal aid providers around the state.

O. Legislative Policy Subcommittee: Christina Melton Crain reported that six sections, Animal Law, Family Law, Hispanic Issues, LGBT Law, Municipal Judges, and Real Estate, Probate and Trust Law, had legislation that was included in the State Bar's 2013 legislative packet, and a majority of the session's legislative program bills did pass, Family Law and Real Estate, Probate and Trust Law.

P. Section Representatives to the Board Committee: Steve James reported that a third new Section Representative, Richard Melamed from Houston, was appointed to the Board. James encouraged the new directors to attend their Section council meetings to which they are the advisor and alternate advisor.

Q. Supreme Court Liaison: Justice Phil Johnson reported that the legislature continued funding for access to justice, as well as e-filing. Divorce forms will have an amendment dealing with a small area, the disposition of retirement assets. Justice Johnson thanked the third-year directors for their service on behalf of the Court.

R. Court of Criminal Appeals Liaison: Judge Michael Keasler reported that the Court sat in Houston during May and will be sitting in Lubbock in October in order to get out among the public so that people can see what the Court of Criminal Appeals does. Three judges are retiring at the end of next year.

S. Federal Judicial Liaison: Judge Michaela Alvarez remarked that it was a pleasure to see the great work the State Bar does. She reported that there are still six vacancies in the district courts and two in the court of appeals.

T. Judicial Section Liaison: Judge Alfonso Charles noted that he is proud to be a lawyer, judge and a member of the State Bar Board. Judge David Evans is the chair-elect for the Judicial Section next year. The Section is also working with the Texas Center for the Judiciary to get ready for the Annual Judicial Conference.

U. Executive Director: Michelle Hunter reported on the various projects and recipients of the Continuous Improvement Projects this year. Linda Acevedo made remarks about Jeff Yarbrough from the Chief Disciplinary Counsel's office, and Hunter presented him with the Employee of the Quarter Award.

There being no further business, the meeting was adjourned at 4:23p.m. [**Exhibit G**]²

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

² Exhibit G is the State Bar Committee and Section End of Year Reports and is for information only.