

**OFFICIAL MINUTES  
STATE BAR OF TEXAS  
BOARD OF DIRECTORS MEETING  
Magnuson Grand Ambassador Hotel  
Amarillo, TX  
Friday, April 25, 2014**

The Board of Directors of the State Bar of Texas met in a regular session on April 25, 2014 at the Ambassador Hotel in Amarillo. Chair Cindy Tisdale called the meeting to order at 9:00am, and Executive Director Michelle Hunter called the roll. A quorum of voting Board members was present. Cori Harbour-Valdez led the invocation. Judge Jo Ann Reyes led the pledges to the U.S. and Texas flags.

***Present:***

**Board Members:** David Alders, Robert Aldrich, President-elect Trey Apffel, Jaime Balli, Ben Barlow, Brent Benoit, TYLA President Kristy Blanchard, Lawrence Boyd, TYLA President-elect Rebekah Steely Brooker, Frank Carroll, David Chamberlain, Curry Cooksey, Diane DeVasto, Sara Dysart, Richard Elliott, Immediate Past President Buck Files, Steve Fischer, Laura Gibson, Christopher Gilbert, Cori Harbour-Valdez, Daniel Horowitz, Regina Bynote Jones, John Kazen, Mark Kelly, Tim Kelly, Roger Key, Larry McDougal, Susan Nelson, Gail Plummer, Tino Ramirez, Judge Jo Ann Reyes, Tom Riney, Dr. Eliseo Ruiz, Ford Sasser, Denise Scofield, Immediate Past Chair of the Board Frank Stevenson\*, President Lisa Tatum, David Teuscher, Chair of the Board Cindy Tisdale, Andrew Wallace, David Whittlesey

**Liaisons\*:** Justice Phil Johnson, Judge Michael Keasler, Judge Penny Roberts, Hap Weitzel

**Section Representatives\*:** Michele Wong Krause, Richard Melamed, Scott Rothenberg, Grant Scheiner

**Excused Absences:** Judge Ron Clark\*, Alison Colvin\*, Robert Guest, Louis Iselin, Andy Kerr, Gary Nickelson\*, Andy Payne, TYLA Immediate Past President C.E. Rhodes, Ike Vanden Eykel

(\* = nonvoting)

I. CONSENT AGENDA ITEMS:

**Upon motion properly made by Tom Riney and seconded by Ford Sasser, the following items from the Consent Agenda were approved:**

- A. Approval of minutes of Board meetings conducted on *January 24, 2014*
- B. Ratification of actions taken at the following Executive Committee meetings:
  - 1) ***April 3, 2014:*** Approved minutes of the *January 9, 2014* Executive Committee meeting
- C. Approval of appointments to the following entities:

1) **2014-2015 Special Committee to Nominate ABA Delegates:**

**Buck Files, Chair (Tyler)**

**Kim Askew (Dallas)  
Rhonda Hunter (Dallas)  
Jennifer Rymell (Fort Worth)  
Chris Rogers (Dallas)**

**Kelly Ann Clarke (Galveston)  
Jay Ray (McKinney)  
Eduardo Roberto Rodriguez (Brownsville)  
Laura Sharp (Austin)**

2) **Commission for Lawyer Discipline:**

- a. for term effective September 1, 2014 through August 31, 2015:

**Chair: Guy Harrison (Longview)**  
**Vice Chair: John Neal (Austin)**

b. for three-year terms effective September 1, 2014 through August 31, 2017:

**Theresa Chang (Houston)**  
**Noelle Reed (Houston)**

3) **Law Focused Education, Inc.**, for two-year terms effective June 1, 2014 through May 31, 2016:

**Hector Beltran (El Paso)**  
**Wendy Humphrey (Lubbock)**  
**Cindy Johnson (Fort Worth)**

4) **Texas Center for Legal Ethics**, for three year terms effective June 1, 2014 through May 31, 2017:

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

5) **Texas Legal Protection Plan**, for three year terms effective June 1, 2014 through May 31, 2017:

**Robert Avera (Austin)**  
**Stuart Smith (Midland)**  
**John Hatchel (Woodway)**

6) **2014 Annual Meeting Resolutions Committee:**

**Frank Stevenson, Chair (Dallas)**  
**Cameron Cox, Vice-chair (Flower Mound)**  
**Janna Clarke, Secretary (Fort Worth)**  
**Pablo Almaguer, Parliamentarian (Edinburg)**  
**Jo Ann Merica, Alternate (Austin)**  
**David Whittlesey, Alternate (Austin)**

D. Approval of State Bar Committees, Chairs, Co-Chairs, Vice Chairs, Co- Vice Chairs, and members to serve during the year 2014-15 per State Bar Rules, Art. VIII, Section 1B **[Exhibit A]**<sup>1</sup>

E. **Texas Bar Foundation Board of Trustees**, for three year term effective June 1, 2014 through May 31, 2017:

Public Member:  
**Melinda Wycoff (Kemah)**

F. Approval of request by the Bankruptcy Law Section to amend its bylaws **[Exhibit B]**

G. Approval of request by the Hispanic Issues Section to amend its bylaws **[Exhibit C]**

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

- 1) Pro Bono Award: **Houston Volunteer Lawyers, A Service of the Houston Bar Association**
- 2) Frank J. Scurlock Award: **Pete Schenkkan, Graves Dougherty Hearon & Moody**
- 3) The J. Chrys Dougherty Legal Services Award: **Andrea Marsh, Texas Fair Defense Project**
- 4) W. Frank Newton Award: **Baylor University School of Law**
- 5) Pro Bono Coordinator Award: **Shauna Wright, Kelly Hart & Hallman LLP**
- 6) Judge Merrill Hartman Pro Bono Judge Award: **Chief Justice Kem Thompson Frost**
- 7) Warren Burnett Award: **Harris County Public Defender's Office**
- 8) Michael K. Moore Award for Excellence in Research or Writing in the Area of Indigent Criminal Defense: **Andrea Marsh**

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

- 1) **Hon. John B. Board**
- 2) **Mark Logsdon**

II. REPORTS:

A. Report from the Chair of the Board:

Chair Cindy Tisdale welcomed the Board to Amarillo and thanked Tom and Sandy Riney for their help in planning the events in Amarillo. Chair Tisdale reported the Board has done even more district director presentations since January, and she appreciates the effort made to work with State Bar staff in sending out the director emails in March, which enhances communication efforts.

Chair Tisdale reported that at the January meeting, the Board voted to conduct the Chair election by written ballot, and she explained the balloting process. **After one round of voting was conducted, Chair Tisdale announced that Roger Key has been elected as the 2014-15 Chair of the Board.** Key made remarks. **[Exhibit F]**

B. Report from the President:

President Lisa Tatum reported that she had the opportunity to speak at the Texas Women Lawyers Annual Meeting in Dallas, where they discussed ways to foster growth and success for women lawyers. She also attended the Women in the Law CLE on March 24 in Austin, and participated in a panel at the Dallas Bar Association Minority Attorney Program. President Tatum reported that more than 6,159 teachers at 157 seminars have been introduced to the "*I was the First. Vote for Me!*" initiative, which has impacted more than 272,000 students. El Paso Independent School District has adopted the program across the district. President Tatum also attended a joint Care Campaign clinic held by the San Antonio Young Lawyers Association and the St. Mary's University School of Law on February 27, which was a success. The State Bar hosted the second "Updates for Solo Practitioners and Small Firms" CLE in Amarillo on April 23 and had more than 65 registrants. More than 280 attorneys have also participated in the two live presentations of the Alternative Careers for Lawyers seminars in Houston and Dallas. An online video of the program was posted on TexasBarCLE.com on March 5, and the next free live seminar will be held in Austin on May 8.

President Tatum reported that one minority director position on the Board will expire in June. The Ad Hoc Committee to Select Minority Directors, chaired by Jaime Balli, submitted two candidates to her for consideration, and she interviewed both candidates. President Tatum has selected Sylvia Borunda Firth of El Paso to fill the next minority director position.

**President Tatum moved for approval of the appointment of Sylvia Borunda Firth to serve as Minority Director to the State Bar Board of Directors, for a three-year term effective Annual Meeting 2014 through Annual Meeting 2017; Cori Harbour-Valdez seconded. Motion carried. [Exhibit G]**

Larry Pascal and Leland De La Garza of the International Law Task Force discussed the background of the task force, various members, and a variety of factors the task force discussed including the need to be more internationally competitive in the Texas legal market, for reasons such as globalization, the Texas economy, and an

increasingly international legal environment. Pascal noted that Texas rules have not kept up with global factors. Three of the primary areas studied by the task force are eligibility to sit for the bar, additional refinements to the Foreign Legal Consultants Rule, and the *Pro Hac Vice* Rule. Pascal reported on New York's rule for foreign civil law attorneys and the current Texas Rule 13(b) regarding foreign civil law and common law attorneys. The task force is looking at proposing Texas Rules that will create a distinction between attorneys from civil law jurisdictions and those from common law jurisdictions, as well as Rule XIV on Foreign Legal Consultants and the *Pro Hac Vice* Rule. There was discussion on how the presence of foreign lawyers in Texas would affect smaller firms, and whether Texas lawyers would be displaced by competition of foreign lawyers practicing here. Justice Phil Johnson noted that the Supreme Court is in the early phases of considering the report, and that any proposed rules will be published for public comment to give everyone the opportunity to participate in the process. The Court will consider all comments it receives. [Exhibit H]

President Tatum reported that a task force, chaired by Terry Tottenham, was appointed to look at issues associated with aging lawyers as they relate to the practice of law and interaction with the public. The task force found that more attorneys are practicing law well past typical retirement age, and with age, some individuals develop a loss in cognitive abilities. The task force looked at issues relating to aging lawyers and focused on two things; developing educational resources for lawyers and the legal community for how to deal with cognitive loss problems and transition to retirement, and reviewing the administrative and educational requirements for lawyers who practice law past the age of 70 (which are considered Emeritus attorneys). Currently, Emeritus attorneys are exempt from the MCLE rules and are not required to take and report CLE courses. They are also not required to pay bar dues. The recommendations from the task force include eliminating the MCLE exemption for Emeritus attorneys and that all practicing attorneys be required to comply with the MCLE rules and regulations regardless of age. The task force is also recommending that TexasBarCLE consider offering reduced course pricing for Emeritus attorneys, and that the State Bar create an education campaign for lawyers on the various issues that relate to aging lawyer issues. In order to implement the MCLE changes, amendments must be made to the State Bar MCLE Rules and Regulations, and the task force recommended that the proposed policy change be submitted to the MCLE Committee for consideration. The task force also recommended that the issues arising within the grievance process relating to lawyers who have cognitive capacity issues be referred to the Commission for Lawyer Discipline for further review.

There were questions raised about whether or not this would stigmatize aging lawyers, and Immediate Past President Buck Files noted that the goal of the task force was not to stigmatize them, but to treat them the same as any other practicing attorney, and to bring attention to the issues aging attorneys are facing and provide resources to address them. After some discussion, President Tatum called for the question to close debate.

**President Tatum moved for acceptance of the Aging Lawyers Task Force report; Dr. David Teuscher seconded. Motion carried with one nay vote. [Exhibit I]**

C. Report from the President-elect:

President-elect Apffel reported that the public hearing on the State Bar's budget was held on April 3. No one from the public attended. The proposed budget has not changed since the January presentation, and the Supreme Court budget hearing has been scheduled for May 12.

**On behalf of the Budget Committee, President-elect Apffel moved for approval of the proposed SBOT 2014-15 budget for presentation to the Supreme Court of Texas; no second needed. Motion carried. [Exhibit J]**

President-elect Apffel congratulated Roger Key on being elected chair and commended the other candidates on the great job they did during the chair election. President-elect Apffel reported that he attended the ABA Bar Leadership Institute, the Western States Bar Conference, and ABA Days this spring. LeadershipSBOT met in South Padre the last weekend in February, and the deadline for nominations for next year's class is June 30. During the month of April, the State Bar mobile site is featuring a "Vote Now!" option that connects users immediately to the voting website with the intent to make it easier for members to participate in the election. The full launch of Texas Bar Connect, the newest addition to the State Bar's social media platform, will occur in June at Annual Meeting. President-elect Apffel asked the Board to save the date for the Board retreat and the Bar Leaders Conference July 31-August 2 in Houston.

D. Report from the Immediate Past President:

Immediate Past President Buck Files reported that he continues to be a liaison between the State Bar and attorneys in criminal law. He has been working with the Court of Criminal Appeals and Judge Barbara Hervey in her efforts with the *Actual Innocence - "On The Road"* DVD featuring Brady issues, with particular focus on how they relate to law enforcement officers.

E. Nominations & Elections Subcommittee:

Immediate Past Chair Frank Stevenson reported that the election began on April 1 and will end on April 30. Both President-elect candidates have run great campaigns and have been valuable ambassadors for the State Bar. Stevenson reported that voter turnout has been good, and as of yesterday, 21% of attorneys have voted in the election. There are also 10 members of the Board whose terms will be ending at the Annual Meeting, and two of the races in the Houston district are contested. **[Exhibit K]**

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

Guy Harrison gave the quarterly report of the Commission for Lawyer Discipline and reported on the third quarter sanctions breakdown, attorney fees collected, the grievance referral program, and the grievance symposium held in Austin on April 16. He also reported on district grievance committee vacancies and appointments and the top areas of practice for attorney grievances filed. **[Exhibit L]**

G. Texas Young Lawyers Association:

TYLA President Kristy Blanchard reported on a number of completed guides to help educate the public on important topics, including *Breathe Free: A Guide to Immigration*; *A Lawyer's Handbook for Understanding and Guiding Clients Through the Attorney General Process*; *What to Expect When They Call*; *The Texas Juvenile Justice System—What You Need to Know*; and *How to Sue in Justice Court*. TYLA has completed "*B.S.A.F.E. - Battling Substance Abuse for Everyone*", a multi-media public service and education project that educates youth, parents, teachers, and lawyers about the dangers and consequences of substance abuse, provides resources to those who are struggling with substance abuse, and introduces the public to the benefits of using drug courts to help deal with these matters. TYLA President Blanchard reported that they have held numerous free CLE's across the state and expanded the *Ten Minute Mentor* project with 30 new online videos. Through its *Generation Generosity* initiative, TYLA performed service projects across the state in partnership with local bar associations. During the Annual Meeting in Austin, TYLA will be holding its inaugural fun run/walk on Saturday, June 28, at Lady Bird Lake.

H. Administration Committee:

John Kazen reported that 160 people attended the Career Transition Project seminar in Dallas on February 19. An additional free in-person seminar is planned for May 8 in Austin, and 458 people have registered for the free online version of the in-person seminar. Additionally, \$95,000 is being recommended for next fiscal year to continue the program.

I. Audit & Finance Committee:

Roger Key reported that the General Fund had revenues over expenditures of approximately \$1.9 million at the end of February, and the State Bar exceeded its budgeted net revenues over expenditures target by 25%. Ken Couch, Senior Managing Consultant from PFM Asset Management LLC, presented the investment report to the Audit & Finance Committee during their meeting yesterday. The State Bar's portfolio is invested in federal agency securities, high quality commercial paper, FDIC insured certificates of deposit, and AAAM rated money market mutual funds. The portfolio generated a quarterly return of .07% and overall it is highly liquid. Key also reported that PFM Asset Management LLC has been the State Bar's Investment Manager since June 1, 2006, and PFM's current 2-year contract ends May 31, 2014. PFM continues to have excellent performance, despite low rates of interest.

**On behalf of the committee, Roger Key moved for the following:**

**1) Acceptance of the State Bar quarterly investment report for the quarter ending February 28, 2014; no second needed. Motion carried.**

**2) A one-year extension of PFM's current investment management contract through May 31, 2015; no second needed. Motion carried. [Exhibit M]**

J. Client Security Fund Subcommittee:

Judge Jo Ann Reyes reported that the Client Security Fund subcommittee considered 34 applications for a total of \$314,948 during their meeting yesterday. To date, a total of \$944,720 claims have been paid out.

K. Member Services and Education Committee:

Tim Kelly reported that the SBOTIT Trustees met on April 2 for the first time with the three new trustees approved at the January Board meeting. The trustees approved a motion to have a more liberal reduction schedule for life insurance policies from age 65 to 80 with there being no increase in premiums for members. Member Benefits Inc. has been charged with the further development of the conceptual options with a goal of the Trustees acting upon the options by June 1. There have been 1,826 individual medical enrollments in the Texas Bar Private Insurance Exchange, and 13 employer groups enrolled in defined contribution plans. The trustees also added Paychex, Inc. to the Texas Bar Exchange for payroll and 401k distribution.

Michele Wong Krause reported that server acquisitions approved by the Technology Oversight subcommittee in January for the CDC regional offices and the IT Division testing have been installed by staff. The UPL Committee case management system is now in use. The new system allows the UPL committee to build new repositories of data on UPL case and complaint information. Staff responded expeditiously to the Open SSL/"Heartbleed" bug widely reported in the media, and a new malicious network traffic filtering device was installed on the network to detect and drop traffic to and from malicious internet addresses.

L. Section Representatives to the Board Committee:

Michele Wong Krause thanked the Board members who have contacted the Sections to which they are liaisons and who have been attending the Section council meetings. Wong Krause reported on the two Sections that are requesting name changes; Section of Taxation to Tax Section for consistency with other Sections, and Justice of the Peace to Justice of the Peace Courts Section to broaden their audience to include those who practice in front of Justice of the Peace courts.

**Larry McDougal moved for approval of the name change of the Section of Taxation to the Tax Section; Brent Benoit seconded. Motion carried. [Exhibit N]**

**Laura Gibson moved for approval of the name change of the Justice of the Peace Section to the Justice of the Peace Courts Section; Larry Boyd seconded. Motion carried. [Exhibit O]**

Scott Rothenberg reported that the new proposed Section, the Legislative and Campaign Law Section, is being proposed in order to have a neutral entity devoted to education in this particular area of law, and to inform more attorneys who are running for election about campaign and election law. The Executive Committee approved the proposed new Section at its meeting in April.

**Susan Nelson moved for approval of the recommendation regarding the new proposed Legislative and Campaign Law Section; Larry Boyd seconded. Motion carried. [Exhibit P]**

M. Supreme Court Liaison:

Justice Johnson encouraged the Board members to look at the International Law Task Force report and to submit comments they or any of their constituents may have. The Office of Court Administration is the new center for state wide gathering of information and implementation of electronic filing. Justice Johnson believes that issues and problems with e-filing will continue to decrease.

N. Court of Criminal Appeals Liaison:

Judge Michael Keasler reported on the recent election of Court of Criminal Appeals judges.

O. Judicial Section Liaison:

Judge Penny Roberts reported that the Judicial Section held a meeting in early April and re-wrote their bylaws. They also discussed future needs of the judiciary and how to achieve those goals.

P. Out-of-State Lawyer Liaison:

Hap Weitzel reported that he receives many inquiries from out-of-state lawyers with questions about MCLE and membership, and State Bar staff is always very responsive and helpful in getting answers.

Q. Executive Director:

Michelle Hunter noted that she would like to see 100% participation in Access to Justice donations from the State Bar Board, and donation cards have been placed at each Board member's seats in order for them to make a voluntary contribution.

R. Legal Counsel:

***Closed Session:* At 12:15 p.m., the Board recessed the open meeting and reconvened in closed session pursuant to Texas Government Code, Section 551.071 for the purpose of consultation with legal counsel concerning pending and/or contemplated litigation.**

***Open Session:* At 12:22 p.m., the open session of the Board of Directors meeting reconvened. During the closed session, only matters relating to consultations with legal counsel concerning pending and/or contemplated litigation were discussed. No action was taken in closed session.**

There being no further business, the meeting was adjourned at 12:23 p.m.

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