

**OFFICIAL MINUTES  
STATE BAR OF TEXAS  
EXECUTIVE COMMITTEE MEETING  
Texas Law Center  
Austin, TX  
April 3, 2014**

The Executive Committee met on April 3, 2014 in Austin at the Texas Law Center. President Lisa Tatum called the meeting to order at 10:30am, and Executive Director Michelle Hunter called the roll.

**Present:** President-elect Trey Appfel, Robert Aldrich, TYLA President Kristy Blanchard, TYLA President-elect Rebekah Steely Brooker, Immediate Past President Buck Files, Cori Harbour-Valdez, Justice Phil Johnson\*, Tim Kelly, Gary Nickelson\*, Scott Rothenberg\*, President Lisa M. Tatum, Chair of the Board Cindy Tisdale

**Participating via teleconference:** David Alders, Jaime Balli, Laura Gibson, Roger Key

*\*Nonvoting member*

I. APPROVAL OF MINUTES

**Upon motion properly made by Cori Harbour-Valdez and seconded by Tim Kelly, the minutes of the January 9, 2014 Executive Committee meeting were approved as distributed.**

II. REPORTS

A. Report from the President:

President Lisa Tatum reported that she 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. 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 requested 1,770 books in order to supply each of the 59 elementary schools in El Paso with a set. The State Bar will host the second "Updates for Solo Practitioners and Small Firms" CLE in Amarillo on April 23 and have 55 registrants so far. Annual Meeting will be held in Austin on June 26-27 and we have excellent speakers this year.

President Tatum reported that the Ad Hoc Committee to Select Minority Directors, chaired by Jaime Balli, conducted interviews in January for the minority director position expiring in June. The Committee submitted two candidates to her for consideration, and she interviewed both candidates. President Tatum reported that she selected Sylvia Borunda Firth of El Paso to fill the next minority director position. The appointment will be voted on by the Board at the April Board meeting.

Terry Tottenham, chair of the Aging Lawyers Task Force, reported that a task force 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 focused on two components: developing educational resources for lawyers and the legal community on 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 (Emeritus attorneys). Currently, Emeritus attorneys are exempt from the MCLE rules and are not required to take CLE courses and report their MCLE hours. The recommendations from the task force include eliminating the MCLE exemption for Emeritus attorneys and requiring all practicing attorneys to comply with the MCLE rules and regulations. 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 changes be

submitted to the MCLE Committee for consideration. The task force also recommended that the State Bar create an education campaign for lawyers on various issues of concern to aging lawyers, and that TexasBarCLE consider offering reduced course pricing for Emeritus attorneys. The task force also recommended that the problems arising within the grievance process relating to lawyers who have cognitive capacity issues be referred to the Commission for Lawyer Discipline to determine if any changes need to be made to the disciplinary structure to provide additional options. Immediate Past President Buck Files thanked Tottenham for chairing the task force and noted that the goal of the task force was education, in order to bring attention to the issues aging attorneys are facing and provide resources to address them.

**President Lisa Tatum moved for acceptance of the Aging Lawyers Task Force report; Cindy Tisdale seconded. Motion carried.**

B. Report from the Chair of the Board:

Chair Cindy Tisdale reported that district emails from Board members were sent in March, and numerous directors and staff members have received inquiries and requests for additional information. Chair Tisdale reported that she introduced the speaker at the last Alternative Careers for Lawyers Program in January, and it was another great turnout with about 160 people in attendance.

C. Report from the President-elect:

President-elect Apffel reported that he attended the ABA mid-year meeting in Chicago, the ABA Bar Leadership Institute, the Western States Bar Conference, and LeadershipSBOT in South Padre. Next week he will join other members of the Texas delegation in Washington for ABA Days. Texas Bar Connect, the newest addition to the State Bar's social media platform, will launch in June at Annual Meeting.

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

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

D. Report from the Immediate Past President:

Immediate Past President Buck Files reported that 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, and Judge Hervey would like to do a possible second DVD regarding scientific evidence.

E. Administration Committee:

John Sirman reported that there are two lawsuits pending against or involving the State Bar, and questions and discussion on these matters will be conducted in closed session if needed. Al Cumming, on behalf of John Kazen, reported that 160 people attended the Career Transition Project seminar in Dallas on February 19. Based on the evaluation submitted, 91% of the respondents stated that the seminar met or exceeded their expectations. An additional free in-person seminar is planned for May 8 in Austin, and 332 people have already 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. Linda Acevedo reported that UPLC is now using the JustWare case management system, and 74 complaints have been processed in the first quarter of this year.

F. Audit & Finance Committee:

Roger Key reported that the amount of General Fund net revenues over expenditures budgeted for this point in the fiscal year was approximately \$1.5 million, but the actual net was almost \$1.9 million. The result was a positive net variance for the 9 months ending February 28 of approximately 25%. Included with the overall positive variance of \$376,000 is a negative net variance for TexasBarCLE of approximately \$190,000. This consists of a negative revenue variance of 5% and a positive expenditure variance of 6%. TexasBarCLE is working hard to hit the budgeted net amount by fiscal year end.

G. Nominations and Elections Subcommittee:

Immediate Past President Buck Files reported that the election began on April 1 and will end on April 30. Both President-elect candidates ran great campaigns through March. There are also 10 elected members of the Board whose terms will be ending at the Annual Meeting, and two of the races in the Houston district are contested. Immediate Past President Files reminded everyone that board policy requires that board members refrain from endorsing or supporting any candidate for any State Bar elected office.

H. Member Services and Education Committee:

Gary Nickelson reported that the Professional Development Subcommittee will be meeting on Friday, April 11 to hear staff reports and to brainstorm topics for new webcasts and other programs. PDP will also meet on Thursday before the Board meeting in Amarillo.

Tim Kelly reported that the SBOTIT Trustees met the day before for the first time with the three new trustees approved at the January Board meeting. 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. 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. There have been 1,796 individual medical enrollments in the Texas Bar Private Insurance Exchange, and 13 employer groups enrolled in defined contribution plans. More employer group enrollments are expected throughout the year as group policies come up for renewal.

I. Public Services and Education Committee:

Cori Harbour-Valdez reported that the Supreme Court order creating the Texas Access to Justice Commission requires that the Commission submit any strategic plan for statewide delivery of legal services to low income Texas to the Court and to the Executive Committee for approval. There were concerns raised on how the strategic plan negatively affects lawyers and the State Bar.

**Cori Harbour-Valdez moved that the Executive Committee approve the strategic plan proposed by the Texas Access to Justice Commission as included in the materials; no second was obtained. Immediate Past President Buck Files moved to postpone indefinitely the motion to approve the strategic plan in order for further study; President-elect Trey Apffel seconded. Motion carried.**

J. Section Representatives to the Board Committee:

Gary Nickelson reported on two Sections that are requesting name changes; "Section of Taxation" to "Tax Section" for consistency with other Sections, and "Justice of the Peace Section" to "Justice of the Peace Courts Section" to broaden their membership to include those who practice in front of Justice of the Peace courts.

**Cindy Tisdale moved for approval of the name change of the Section of Taxation to the Tax Section, and the Justice of the Peace Section to the Justice of the Peace Courts Section; Robert Aldrich seconded. Motion carried.**

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.

**Tim Kelly moved for approval of the recommendation regarding the new proposed Legislative and Campaign Law Section; Cori Harbour-Valdez seconded. Motion carried.**

K. Supreme Court Liaison:

Justice Johnson received a report from the International Law Task Force, and he suggested that the chair of the task force be asked to come speak to the Board at the April Board meeting in Amarillo. The Court has taken an interest in e-filing, and he noted that the Office of Court Administration is the new center for state wide gathering of information and implementation of electronic filing.

L. TYLA:

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*; and *The Texas Juvenile Justice System—What You Need to Know*. TYLA has also 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. During the Annual Meeting in Austin, TYLA will be holding its inaugural fun run/walk on Saturday, June 28, at Lady Bird Lake.

M. Executive Director:

Michelle Hunter reported that the Aging Lawyers Task Force did a great job on their report and focusing on the issues aging attorneys currently face, and hopefully this will help provide resources to address them.

N. Legal Counsel:

***Closed Session:*** At 11:58 a.m., the Board recessed the open meeting and reconvened in closed session pursuant to Texas Government Code, Section 551.071 and 551.074 to deliberate concerning a personnel matter and for the purpose of consultation with legal counsel concerning pending litigation, including *Citizens Against The Bar, Jamar Osborne, and Mikal Osborne v. State of Texas, Texas Board of Law Examiners, Travis County, Supreme Court of Texas, Julia E. Vaughn, and Buck Files (1:13-cv-00528-LY, U.S. District Court, Western District of Texas) and John V. McShane v. Mary L. Greiner (DC-13-07712, 298<sup>th</sup> District Court of Dallas)*; and contemplated litigation involving a State Bar of Texas employee.

***Open Session:*** At 12:39 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 contemplated litigation and deliberations on a personnel matter were discussed. No action was taken in closed session.

There being no further business, the meeting was adjourned at 12:40 p.m.