

**OFFICIAL MINUTES  
STATE BAR OF TEXAS  
BOARD OF DIRECTORS MEETING  
Hyatt Lost Pines Resort  
Cedar Creek, TX  
Friday, April 10, 2015**

The Board of Directors of the State Bar of Texas met in a regular session on April 10, 2015 at the Hyatt Lost Pines Resort in Cedar Creek/Bastrop. Chair Roger Key called the meeting to order at 9:00am, and Executive Director Michelle Hunter called the roll. A quorum of voting Board members was present. Laura Gibson led the invocation. Louis Iselin led the pledges to the U.S. and Texas flags.

***Present:***

**Board Members:** David Alders, Robert Aldrich, President Trey Apffel, Jaime Balli, Ben Barlow, Brent Benoit, TYLA Immediate Past President Kristy Blanchard, Lawrence Boyd, TYLA President Rebekah Brooker, Amy Bryan, Frank Carroll, David Chamberlain, Curry Cooksey, Diane DeVasto, President-elect Allan K DuBois, Sara Dysart, Richard Elliott, Joe Escobedo, Sylvia Firth, Laura Gibson, Robert Guest, Joe Indelicato, Louis Iselin, John Jansonius, Andy Kerr, Chair of the Board Roger Key, Larry McDougal, Mary Martin, Brian Miller, Susan Nelson, Gail Plummer, Florentino Ramirez, Tom Riney, Anna Sankaran, Ford Sasser, Denise Scofield, Lance Sharp, Immediate Past President Lisa Tatum, TYLA President-elect Barrett Thomas, Immediate Past Chair Cindy Tisdale, Travis Torrence, Andrew Wallace

**Liaisons\*:** Justice Phil Johnson, Judge Michael Keasler

**Section Representatives\*:** Pat Maher, Gary Nickelson, Scott Rothenberg, Grant Scheiner

***Excused Absences:*** Barbara Bass, Leon Carter, Alison Colvin\*, Judge David Evans\*, Tina Green\*, Rice Horkey, Judge Ed Kinkeade\*, Ruben Robles, Dr. David Teuscher, Hap Weitzel\*

(\* = nonvoting)

I. CONSENT AGENDA ITEMS:

**Upon motion properly made by Brian Miller and seconded by Lance Sharp, the following items from the Consent Agenda were approved:**

- A. Approval of minutes of Board meetings conducted on January 16, 2015
- B. Ratification of actions taken at the following Executive Committee meetings:
  - 1) **March 10, 2015:** Approved minutes of the January 8, 2015 Executive Committee meeting
- C. Approval of appointments to the following entities:

1) **2015-2016 Special Committee to Nominate ABA Delegates:**

**Lisa Tatum, Chair (San Antonio)**

**Kim Askew (Dallas)  
Rhonda Hunter (Dallas)  
Janna Clarke (Fort Worth)  
Chris Rogers (Dallas)**

**Kelly Ann Clarke (Galveston)  
Michele Wong Krause (Dallas)  
Eduardo Roberto Rodriguez (Brownsville)  
Laura Sharp (Austin)**

2) **Commission for Lawyer Discipline:**

a. for one-year terms effective September 1, 2015 through August 31, 2016:

**Chair: John Neal (Austin)**  
**Vice Chair: Pablo Almaguer (McAllen)**

b. for three-year terms effective September 1, 2015 through August 31, 2018:

**Pablo Almaguer (McAllen)**  
**Gena Bunn (Longview)**

3) **Law Focused Education, Inc.**, for two-year terms effective June 1, 2015 through May 31, 2017:

**Josh Caldwell (Edinburg)**  
**Barbara Evans (Fort Worth)**  
**Mya Mercer (Round Rock)**  
**Lilly Plummer (Odessa)**  
**Thomas Sullivan (Brownsville)**

4) **Texas Center for Legal Ethics**, for three year terms effective June 1, 2015 through May 31, 2018:

**David S. Smith (Houston)**  
**Terry Tottenham (Austin)**

D. Approval of State Bar Committees, Chairs, Co-Chairs, Vice Chairs, Co- Vice Chairs, and members to serve during the year 2015-16 per State Bar Rules, Art. VIII, Section 1B **[Exhibit A]**<sup>1</sup>

E. **Texas Bar Foundation Board of Trustees**, for one year term effective June 1, 2015 through May 31, 2016:

Board Liaison:  
**Diane DeVasto (Tyler)**

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

- 1) Pro Bono Award: **ProBAR Children's Project, Harlingen**
- 2) Frank J. Scurlock Award: **Robert G. Devlin, Houston**
- 3) The J. Chrys Dougherty Legal Services Award: **Rebecca Lightsey, Texas Appleseed**
- 4) W. Frank Newton Award: **Akin Gump Strauss Hauer and Feld**
- 5) Pro Bono Coordinator Award: **Susan Barrington Sanchez, Exxon**
- 6) Judge Merrill Hartman Pro Bono Judge Award: **Judge Judy C. Parker, Lubbock**

## II. REPORTS:

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

Chair Roger Key reported the that he was pleased with how many Board members have continued their commitment to keeping members informed. He also thanked the board for their help with the director emails that were sent out in February to their constituents.

Chair Key reported that at the January meeting, the Board voted to conduct the Chair election by written ballot, and he explained the balloting process. **After one round of voting, Chair Key announced that David Chamberlain was elected as the 2015-16 Chair of the Board.** Chamberlain made remarks. **[Exhibit C]**

### B. Report from the President:

President Trey Apffel reported that earlier in the week, the officers and executive staff attended the Texas Access to Justice Commission's Champions of Justice Gala. The Gala is one of the many ways the State Bar works with the TAJC, the Access to Justice Foundation, and other partners to fulfill our mission to assure all citizens have equal access to justice. This year, the Gala raised \$401,500 for low-income veterans. The ABA held its midyear meeting in Houston in February, and our state was well represented in attendance and programming. Kim Askew received the 2015 Spirit of Excellence Award, and Travis Sales participated in a panel discussion on veterans' legal initiatives and highlighted the work of the HBA Veterans Legal Initiative and Texas Lawyers for Texas Veterans. Chief Justice Hecht delivered his State of the Judiciary address on February 18<sup>th</sup>, covering critical access to justice issues. Another solo/small firm outreach event was held on March 3 in Sugarland, and it received a great response from attendees. The State Bar Annual Meeting will take place June 18-19 in San Antonio. The State Bar continues to add sections to our members-only social media platform, Texas Bar Connect, and the redesign of texasbar.com is progressing, with the official unveiling to come in the months ahead. President Apffel reported that the Evaluation Committee, comprised of the President, President-elect, Immediate Past President, Chair of the Board, and Chair of the Administration Committee, met yesterday and will be further reported on at the June Board meeting.

President Apffel reported that one minority director position on the Board will expire at the Annual Meeting. The Ad Hoc Committee to Select Minority Directors, chaired by Andrew Wallace, submitted two candidates for consideration, and President Apffel interviewed both of them in person. President Apffel selected Rehan Alimohammad of Sugarland to fill the position.

**President Apffel moved for approval of the appointment of Rehan Alimohammad of Sugarland to serve as Minority Director to the State Bar Board of Directors, for a three-year term effective Annual Meeting 2015 through Annual Meeting 2018; Immediate Past President Lisa Tatum seconded. Motion carried. [Exhibit D]**

President Apffel reported that two legislative proposals were added to the State Bar's legislative package according to the policy manual process for responding to legislation as it is filed during session. Both of these additions were approved by the Executive Committee on March 10<sup>th</sup>. On February 15<sup>th</sup>, at the request of David Chamberlain, the Ad Hoc Emergency Legislative Response Committee voted to support Senate Bill 534, which would make an addition to the attorney oath to require lawyers to swear that they will "conduct [themselves] with integrity and civility in dealing and communicating with the court and all parties."

**President Apffel moved for approval to ratify the Ad Hoc Committee's decision that the State Bar will support Senate Bill 534; Frank Carroll seconded. Motion carried. [Exhibit E]**

On February 28<sup>th</sup>, at the request of the Native American Law Section, the Ad Hoc Emergency Legislative Response Committee voted to allow the Section to take a position in support of House Bill 825, which includes proposed procedures for identifying Native American heritage of children in certain hearings in suits affecting the parent-child relationship. The Family Law Section was informed of this proposal and had no objections.

**President Apffel moved for approval to ratify the Ad Hoc Committee's decision to allow the Native American Law Section to support House Bill 825; Susan Nelson seconded. Motion carried. [Exhibit F]**

C. Report from the President-elect:

President-elect Allan DuBois reported that he attended the ABA midyear meeting in Houston, the ABA Bar Leadership Institute, and the Western States Bar Conference, as well as the TBLS induction ceremony in Austin. In March, he spoke at the Hispanic National Bar Association's sixth annual Corporate Counsel Conference in San Antonio, highlighting the Texas Lawyers' Assistance Program. President-elect Dubois noted that his emphasis is on the mission of TLAP. This will include producing an inspirational video and raising financial support for the Sheeran-Crowley Trust. He asked the Board to approve a \$250,000 donation to the Trust in the budget to continue this important work, and he also reported that the Texas Bar College has agreed to provide a generous \$35,000 grant to the Trust.

President-elect DuBois reported that the public hearing on the State Bar's proposed budget was held on March 31, and no one from the public attended. The Supreme Court budget hearing has been scheduled for May 11.

**On behalf of the Budget Committee, President-elect DuBois moved for approval of the presentation of the fiscal year 2015-2016 SBOT proposed budget to the Supreme Court of Texas; no second needed. Motion carried. [Exhibit G]**

President-elect DuBois reported that the State Bar Act requires the Executive Committee to 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 concluded that the committee structure is working well and there is a continuing need for all standing committees with a couple of exceptions, and that they are working on mutually exclusive projects. The task force made several recommendations, including implementing term limits for Pattern Jury Charges committees and the Real Estate Forms Committee; eliminating the Paralegals Committee; changing the name of the Pattern Jury Charges-General Negligence and Intentional Personal Torts Committee; and eliminating the Web Services Committee.

**On behalf of the Committee Review Task Force, President-elect DuBois moved for approval of the recommendations of the Committee Review Task Force, to be effective June 1<sup>st</sup> in conjunction with the bar's fiscal year; no second needed. Motion carried. [Exhibit H]**

D. Report from the Immediate Past President:

Immediate Past President Lisa Tatum enjoyed welcoming the ABA to Texas in February, in particular having the chance to present a forum along with Benny Agosto on how to prepare bar associations for diversity and inclusion. She also had the opportunity to speak at the Native American Law Conference that was held at the Law Center on January 30<sup>th</sup>. She noted that as her term comes to an end, she cherishes every opportunity to present her presidential initiatives *I Was the First. Vote for Me!* and the *CARE Campaign*, and is proud of all the State Bar has achieved.

E. Nominations & Elections Subcommittee:

Immediate Past Chair Cindy Tisdale reported that the election began on April 1 and will end on April 30. Both President-elect candidates have run great campaigns and traveled all over the state. Tisdale reported that as of yesterday, 13.94% 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 five of those races are contested. The terms for the new President-elect and district directors will begin at Annual Meeting. **[Exhibit I]**

F. Policy Manual Subcommittee:

Diane DeVasto reported on proposed changes to the Policy Manual. Section 8.02 pertains to the Amicus Brief approval process, which was originally adopted by the Board at its September 2009 meeting. There is a conflicting provision in 8.01.10 concerning approval of requests by sections to file amicus briefs, and the recommendation includes deleting this provision in favor of the inclusive provisions of 8.02. The revisions to 8.02 provide for the distribution of a request for approval to be sent to all the sections for comments, and require sections to go through the Executive Committee or full process, leaving the Ad Hoc Submission Committee to consider only requests submitted by an officer or director. Section 7.05 would revise certain policies for the Texas Bar Journal to reflect recent changes made to internal policies by the Bar Journal Board of Editors. Minor revisions to section 4.01.04 concerning the terms of standing committee members, and to section 4.04 requiring each standing committees to hold an organizational meeting by October 1 of each year, reflect recommendations made by the Committee Review Task Force. Section 3.09 concerning sponsorships is no longer in line with current practice and therefore would be deleted, and a new section 7.08 concerning Member Benefits is being proposed. The revisions to section 1.04.03 concerning the Ad Hoc Committee to Select Minority Directors would reduce the size of the nominating committee and would move the deadlines in order to make the process more effective and efficient.

**On behalf of the Policy Manual Subcommittee, DeVasto moved for approval of the following proposed revisions to the policy manual:**

- 1) Deletion of section 8.01.10 and the revisions to section 8.02; no second needed. Motion carried.**
- 2) Revisions to section 7.05; no second needed. Motion carried.**
- 3) Revisions to section 4.01.04 and 4.04; no second needed. Motion carried.**
- 4) Deletion of section 3.09 and the adoption of new section 7.08; no second needed. Motion carried.**
- 5) Revisions to section 1.04.03, as set forth in the materials; no second needed. Motion carried.**

**[Exhibit J]**

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

John Neal reported on district grievance committee vacancies and appointments and the top areas of practice for attorney grievances filed. Linda Acevedo reported on issues in immigration law practice, including communication with other entities, training and education, and recruitment of grievance committee members and experts. **[Exhibit K]**

H. Texas Young Lawyers Association:

TYLA President Rebekah Brooker reported on TYLA activities, such as “Interns Across Texas”, “Bigger Than Bullies”, and “Just Drive”, the social media campaign against texting and driving. TYLA’s Pro Se Litigants guide is available in both Spanish and Chinese, and various other pamphlets are available. TYLA President Brooker thanked those who attended the TYLA Diversity Dinner on April 8th in Austin.

I. Administration Committee:

Laura Gibson reported on the work of the subcommittees of the Administration Committee. The Employment/Salary/Evaluation Subcommittee is currently reviewing Texas Legal (formerly Texas Legal Protection Plan), and has reviewed a draft report. Recommended actions, if any, will be presented for approval at the Board meeting in June. The Subcommittee is also working on revising the State Bar Employee Handbook, and the recommended changes have been approved by the Administration Committee. David Alders reported that the Administration Committee approved leasing 7,684 rentable square feet on the third floor of the Woodway building for the Houston office. Alders outlined the details of the lease and noted that construction will be done from August to October, with an estimated move-in date of October 31<sup>st</sup>.

J. Audit and Finance Committee:

Tom Riney reported that as of February 28, the general fund actual net revenues over expenditures and transfers totaled approximately \$2.1 million, and a 34% positive variance of budgeted to actual net revenues. 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 general fund portfolio is fully invested in U.S. treasuries, 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 .13% and overall it is highly liquid and maintains high credit quality. Riney reported that a new internal audit plan was developed by Maxwell Locke & Ritter. The methodology used in preparing the plan includes survey responses from key State Bar employees as well as a review of the Bar’s strategic plan, Board minutes, financial audit, prior internal audit plan and internal audit reports. The plan provides for an annual internal control audit of the State Bar’s departments on a rotating basis. In January, the State Bar issued an RFP for financial audit services and internal control audit services to 13 CPA firms. After a comparison of personnel qualifications, previous governmental auditing experiences and other relevant factors, the Audit and Finance Committee agreed that the two CPA firms currently performing the State Bar’s audits are the best firms for the job. Also in January, RFP’s for investment management services were issued to five investment firms. Based on past performance and the excellent professional service extended to the State Bar over the last nine years, the Committee agreed that the investment firm of PFM Asset Management LLC should continue to serve as the investment manager. Riney also discussed proposed revisions to the policy manual regarding the frequency of sending request for proposals for audit services and investment management services.

Increasing the frequency from every three years to every five years will create efficiencies and improve the effectiveness of the Bar's auditors and investment managers.

**On behalf of the Audit and Finance Committee, Riney moved for the following:**

- 1) Acceptance of the State Bar quarterly investment report for the quarter ending February 28, 2015; no second needed. Motion carried.**
- 2) Approval of the Internal Control Audit Plan; no second needed. Motion carried.**
- 3) Approval of Padgett & Stratemann & Co. as SBOT financial auditors and Maxwell Locke & Ritter LLC as SBOT internal control auditors; no second needed. Motion carried.**
- 4) Approval of two-year contract with PFM Asset Management LLC to serve as SBOT investment manager for fiscal years 2015-16 and 2016-17; no second needed. Motion carried.**
- 5) Adoption of revised policy manual sections 3.03.01 and 3.05.02; no second needed. Motion carried. [Exhibit M]**

**K. Client Security Fund Subcommittee:**

Denise Scofield reported that the Client Security Fund Subcommittee met yesterday and approved 36 claims for a total of \$117,831. So far, \$352,965 total claims have been paid out this year.

**L. Member Services and Education Committee:**

Gary Nickelson reported that the Professional Development Subcommittee will meet jointly with the CLE Committee in Austin next Friday where they will develop new topics for webcasts and other events and hear staff reports. At the end of February, attendance on live CLE programs is up over last year on programs and down on 36, but revenue and attendance from online programs are up this year. David Chamberlain reported on the Texas Bar Private Insurance Exchange, noting that the AD&D and Health & Wellness programs are being enhanced this year. A customer satisfaction survey will be conducted in April to get feedback from members about the Exchange. The Insurance/Member Benefits Subcommittee has also approved an updated FedEx contract with enhancements such as reward promotions. Louis Iselin reported that the Technology Oversight Subcommittee approved the replacement of the Bar's primary virtual server system, desktop/laptop computers, and acquisition of a new Intrusion Detection/Prevention security appliance intended to safeguard the State Bar's data and systems. Also, on April 1, the MCLE and IT departments released RFP's for the replacement of the MCLE Compliance Tracking system, which will entail a complete re-write of the software.

**M. Public Services and Education Committee:**

Susan Nelson reported on the Affordable Legal Services Subcommittee, noting that the *Guidelines and Standards for Texas Capital Counsel* was adopted by the Board in 2006. The Legal Services to the Poor in Criminal Matters Committee determined that the guidelines should be enhanced with *Supplementary Guidelines for the Mitigation Function of Defense Teams in Texas Death Penalty Cases*, because the mitigation function is critical in providing competent defense in capital cases. These guidelines are a result of a two-year drafting and review process by experts in death penalty litigation, and feedback was also sought from various sources.

**On behalf of the Affordable Legal Services Subcommittee, Nelson moved for approval of the Supplementary Guidelines and Standards for the Mitigation Functions of Defense Teams in Texas Death Penalty Cases; no second needed. Motion carried. [Exhibit N]**

Nelson noted that the other item that was posted for action, the *Best Practices for Lawyers Representing Survivors of Domestic Violence, Sexual Assault, Stalking and Trafficking in Texas*, needed further revisions and therefore would be presented at a later time.

Jaime Balli reported that this week, the Ad Hoc Emergency Legislative Response Committee received a request from the Litigation Section that the Section be allowed to take a formal position on SB 1603 in the name of the Section. The Ad Hoc Committee voted yesterday to approve the Litigation Section request. SB 1603 is a bill to

create chancery courts in Texas. There was some discussion on whether or not this was a unanimous position within the Section. Balli noted that approval of this gives the Litigation Section the right to oppose the bill in the Section's name, and is not an endorsement of any position by the State Bar.

**On behalf of the Legislative Policy Subcommittee, Balli moved for approval to ratify the Ad Hoc Committee's decision that the Litigation Section be allowed to oppose Senate Bill 1603 in the Section's name; no second needed. Motion carried. [Exhibit O]**

N. MCLE Committee:

Jason Honeycutt from the MCLE Committee reported that in April of 2014, the Task Force on Aging Lawyer Issues made a recommendation to the Board to eliminate the MCLE exemption for Emeritus attorneys, and these recommendations were submitted to the MCLE Committee for consideration. The MCLE Committee approved recommendations for changes to the MCLE rules and regulations that would eliminate the age exemption for emeritus attorneys. The first change repeals the age exemption from MCLE Rules, Section 4 (G) and MCLE Regulations, Section 5.9. The age exemption would be repealed with an effective date as of Supreme Court approval. The initial compliance year for emeritus members would start on the birth month that falls on or after June 1, 2016 and end 12 months later. Emeritus attorneys with a June birth month would be the first to comply in June 2017 and each year thereafter. Emeritus attorneys would also be given a one-year initial grace period to complete CLE requirements. The second change reduces non-compliance and reinstatement fees for emeritus members. Emeritus attorneys would not be exempt from fees associated with repeat suspensions and with multiple year suspensions. One Board member noted that he has received negative comments from his constituents about eliminating the exemption. The proposed revisions to the MCLE rules would be subject to Supreme Court approval and adoption.

**Larry Boyd moved for approval of the proposed changes to the State Bar MCLE Rules and Regulations concerning elimination of the MCLE age exemption; Gail Plummer seconded. Motion carried. [Exhibit P]**

O. Professionalism Committee:

Kenda Culpepper from the State Bar's Professionalism Committee discussed various projects the Committee has been working on, including the Texas Lawyers Creed and an ethics PowerPoint presentation that will be sent to the Board as a supplement to their district presentations. The Committee focuses on four main topics – mentoring, adapting transition to practice, CLE and ethics.

P. Section Representatives to the Board Committee:

Scott Rothenberg reported that Section membership has increased, and 43% of State Bar members are members of sections. Philip Mack Furlow from Denton and Audrey Moorehead from Dallas were elected as the new Section Representatives and will join in the Board in June at the Annual Meeting.

Q. Supreme Court Liaison:

Justice Johnson reported that the Court has been focused on the legislature, elections and funding. He noted that Governor Abbott is building his relationship with the Court.

R. Court of Criminal Appeals Liaison:

Judge Michael Keasler reported on the activities of the Court of Criminal Appeals.

S. Executive Director:

Michelle Hunter noted that Board donations to Access to Justice have doubled from the previous year, and she would like to see 100% participation in ATJ donations from the State Bar Board. Staff has also donated almost

\$4000 from ATJ donation Jeans Days this year. Donation cards have been placed at each Board member's seats in order for them to make a voluntary contribution. Hunter presented Ann Nunez, Purchasing Specialist, with the Employee of the Quarter Award.

There being no further business, the meeting was adjourned at 11:58 a.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.