

**OFFICIAL MINUTES  
STATE BAR OF TEXAS  
BOARD OF DIRECTORS MEETING  
Horseshoe Bay Resort  
Horseshoe Bay, TX  
Friday, April 15, 2016**

The Board of Directors of the State Bar of Texas met in a regular session on April 15, 2016 at the Horseshoe Bay Resort in Horseshoe Bay, Texas. Chair David Chamberlain called the meeting to order at 9:00am, and Executive Director Michelle Hunter called the roll. A quorum of voting Board members was present. Gail Plummer led the invocation. Florentino Ramirez led the pledges to the U.S. and Texas flags. Shortly after the report from the Office of Court Administration, a member of the public, Mari Haley from the Highland Lakes Bar Association, spoke on behalf of her constituents on the emeritus rules.

***Present:***

**Board Members:** Rehan Alimohammad, Immediate Past President Trey Apffel, Ben Barlow, Micah Belden, Brent Benoit, TYLA Immediate Past President Rebekah Brooker, Amy Bryan, Alan Carmichael, Frank Carroll, Chair of the Board David Chamberlain, Curry Cooksey, President Allan K DuBois, Richard Elliott, Joe Escobedo, Sylvia Firth, Ricky Gonzalez, Ann Greenberg, August Harris, Rice Horkey, TYLA President-elect Sam Houston, Joe Indelicato, John Jansonius, Andy Kerr, Immediate Past Chair of the Board Roger Key, Mary Martin, Brian Miller, Susan Nelson, Gary Nickelson, Gail Plummer, Florentino Ramirez, Ruben Robles, Anna Sankaran, Ford Sasser, Lance Sharp, Scott Sherwood, Rebecca Simmons, Scott Stolley, President-elect Frank Stevenson, TYLA President Barrett Thomas, Andrew Tolchin, Travis Torrence, Andrew Wallace, Michael Wynne

**Liaisons\*:** Judge Fred Biery, Justice Phil Johnson, Tim Mountz, Judge Pat Pirtle

**Section Representatives\*:** Alison Colvin, Philip Mack Furlow, Tina Green, Pat Maher, Audrey Moorehead, Grant Scheiner

***Excused Absences:*** *Barbara Bass, Leon Carter, Carter Crow, Diane DeVasto, Judge Michael Keasler\**

(\* = 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. The minutes of the January 22, 2016 Board meeting, as amended
- B. Ratification of actions taken at the following Executive Committee meetings:
  - 1) **March 10, 2016:** Approved minutes of the January 7, 2016 Executive Committee meeting
- C. Appointments to the following entities:
  - 1) **2016-2017 Special Committee to Nominate ABA Delegates:**

**Trey Apffel, Chair (League City)**

**Kim Askew (Dallas)  
Rhonda Hunter (Dallas)  
Janna Clarke (Fort Worth)  
Carl Robin Teague (San Antonio)**

**Jennifer Rymell (Fort Worth)  
Elizabeth Lang Miers (Dallas)  
Eduardo Roberto Rodriguez (Brownsville)  
Laura Sharp (Austin)**

- 2) **Commission for Lawyer Discipline:**
  - a. for one-year terms effective September 1, 2016 through August 31, 2017:  
  
**Chair: John Neal (Austin)**  
**Vice Chair: Pablo Almaguer (McAllen)**
  - b. for three-year terms effective September 1, 2016 through August 31, 2019:  
  
**John Neal (Austin)**  
**Bruce Ashworth (Arlington)**
- 3) **Law Focused Education, Inc.**, for two-year terms effective June 1, 2016 through May 31, 2018:  
  
**Dana Grieb (Rockwall)**  
**Daniel Hu (Houston)**  
**Juliana Stibbe (The Woodlands)**  
**Wendy Humphrey (Lubbock)**
- 4) **Texas Center for Legal Ethics**, for three year terms effective June 1, 2016 through May 31, 2019:  
  
**Susan Cuellar (Dallas)**  
**J.B. Whittenburg (Beaumont)**  
**Beverly Godbey (Dallas)**

- D. Amendments to the Litigation Section's bylaws [**Exhibit A**]<sup>1</sup>
- E. Amendments to the Immigration and Nationality Law Section's bylaws [**Exhibit B**]
- F. Amendments to the Juvenile Law Section's bylaws [**Exhibit C**]
- G. Increase of the Public Utility Law Section dues to \$20
- H. Increase of the GP Solo and Small Firm Section dues to \$25
- I. Appointments of State Bar Committees Chairs, Co-Chairs, Vice Chairs, Co-Vice Chairs, and members to serve during the year 2016-17 per State Bar Rules, Art. VIII, Section 1B [**Exhibit D**]
- J. Appointments to the **Texas Bar Foundation Board of Trustees**, for one year term effective June 1, 2016 through May 31, 2017:

Board Liaison:  
**Sylvia Firth (El Paso)**

- K. The recipients for the pro bono and indigent defense awards to be presented at the Annual Meeting: [**Exhibit E**]
  - 1) Pro Bono Award: **Refuge and Immigrant Center for Education & Legal Services (RAICES), San Antonio**
  - 2) Frank J. Scurlock Award: **Charles L. Kessi**
  - 3) The J. Chrys Dougherty Legal Services Award: **Efren C. Olivares**
  - 4) W. Frank Newton Award: **Baker Botts, L.L.P, Houston, Dallas and Austin**
  - 5) Pro Bono Coordinator Award: **Jan Kearney**
  - 6) Judge Merrill Hartman Pro Bono Judge Award: **Judge Marc C. Carter**

- 7) Warren Burnett Award: **Betty Blackwell**
- 8) Michael K. Moore Award for Excellence in Research or Writing in the Area of Indigent Criminal Defense: **Jeff Blackburn**

L. The creation of a Pro Bono Staff Support Award by the Legal Services to the Poor in Civil Matters Committee [**Exhibit F**]

M. Resolutions honoring: **Mandy K. McCary (Marble Falls)** [**Exhibit G**]

## II. REPORTS:

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

Chair David Chamberlain reported that he was pleased with how many Board members have continued their commitment to keeping members informed through presentations in their districts. Chair Chamberlain gave a special thank you to Tina Green and Brian Miller, who both have presented twice in their districts. He also thanked the Board for their help with the director report emails that were sent in February to their constituents. The 2015-16 SBOT membership statistical profile is now available on the State Bar website. Notable findings over the last ten years include a 28% increase in active Texas attorneys, a 47% increase in women attorneys, a 75% increase of minority attorneys, and a 100% increase in attorneys 65 years of age or more. The Texas attorney survey is conducted every other year to provide members with information about the economics of the practice of law. Approximately 10,000 attorneys have responded to the 2015 calendar year attorney survey, which began on March 21, 2016 and ends on Monday, April 18.

Chair Chamberlain reported that at the January meeting, the Board voted to conduct the Chair election by written ballot, and he explained the balloting process. He reminded the Board that directors must be present to vote and voting by proxy is not allowed.

**After one round of voting, Chair Chamberlain announced that Joe Escobedo, Jr. is elected as the 2016-17 Chair of the Board.** Escobedo made remarks. [**Exhibit H**]

### B. Report from the President:

President Allan DuBois reported that he has been giving State Bar update presentations around the state. Last week, the Texas Access to Justice Commission's Champions of Justice Gala was held in Austin. The State Bar underwrites the Gala to ensure that as much money as possible goes towards providing civil legal services for low-income veterans. This year, the Gala raised more than \$334,000. The State Bar Annual Meeting will take place June 16-17 in Fort Worth this year. Nominations are being accepted for the 2016-17 LeadershipSBOT class, a program that works to increase diverse leadership participation within the legal community and the State Bar. President DuBois gave a presentation on resources for retirement planning at a TexasBarCLE course on December 4<sup>th</sup> titled *Essentials of Winding Down a Law Practice*. President DuBois announced that \$480,000 has been raised due to fundraising for the Sheeran-Crowley Memorial Trust, and in honor of Fiesta San Antonio, he has commissioned a special, limited-run TLAP medal that is available for purchase, with the proceeds going to the Trust. A website for the Trust has also been launched ([sheerancrowley.org](http://sheerancrowley.org)), where visitors can donate online. President DuBois remarked on the importance of the Texas Lawyers for Texas Veterans project, and the program is being reviewed to ensure the State Bar is doing everything it can to serve our veterans. A preview of the new Texas Lawyers for Texas Veterans promotional video was played.

President DuBois reported that the term for two minority director positions on the Board will expire at the 2016 Annual Meeting. The Ad Hoc Committee to Select Minority Directors, chaired by Joe Escobedo, received 14 nominations for the positions, and conducted interviews of candidates in February. The Committee submitted four candidates for consideration. President DuBois interviewed each of them in person and has selected Rudy Metayer of Austin and Angelica Hernandez of Houston to fill the positions.

**President DuBois moved for approval of the appointment of Rudy Metayer of Austin and Angelica Hernandez of Houston to serve as Minority Directors to the State Bar Board of Directors, for three-year terms effective Annual Meeting 2016 through Annual Meeting 2019; Travis Torrence seconded. Motion carried. [Exhibit I]**

C. Report from the President-elect:

President-elect Frank Stevenson reported on his February trip to Chicago to meet with the ABA Standing Delivery Committee and with participants in the Justice Entrepreneur Project, an incubator program to train new lawyers and expand access to justice for low- and moderate-income Texans. State Bar staff also attended a national incubator conference at the University of Missouri-Kansas City School of Law on April 1-2 to collect more information on various incubator programs. President-elect Stevenson remarked that instead of licensing non-lawyers to perform legal services as is being advocated in some quarters, the State Bar of Texas is working diligently to connect that unmet need for justice for the public with that unmet need for opportunity for attorneys. In the coming months, other elements of the program will be developed as input is received from law schools, legal aid groups, local bars, and other organizations across the state.

President-elect Stevenson reported on the resolution that was adopted at the January Board meeting expressing reservations about the concept of “non-traditional legal service providers” as advanced in Resolution 105, which was submitted to the ABA House of Delegates by the ABA Commission on the Future of Legal Services. The State Bar resolution said it was premature for Texas lawyers to support the ABA resolution before the Texas Commission to Expand Civil Legal Services issued its final report. While not stated in the resolution, other concerns were expressed about licensing non-lawyers to provide legal services. The ABA House of Delegates voted on February 8 to adopt a slightly amended Resolution 105. President-elect Stevenson expressed the opinion that Resolution 105 passed because a greater percentage of the ABA delegates are elected solely based on their ABA work rather than any State Bar or local bar leadership.

President-elect Stevenson reported that the public hearing on the State Bar’s proposed budget was held on April 5, and no one from the public attended. The Supreme Court budget hearing has been scheduled for May 23. There have been no changes to the FY 2016-17 budget since it was presented to the Board at the January meeting.

**On behalf of the Budget Committee, President-elect Stevenson moved for approval to present the State Bar’s proposed fiscal year 2016-2017 budget to the Supreme Court of Texas; no second needed. Motion carried. [Exhibit J]**

D. Office of Court Administration:

David Slayton from the Office of Court Administration gave an update on e-filing. Slayton gave an overview of the Remote Access to Court Electronic Records for Texas (“RACER”) system, and how it will allow users to search for case records through all jurisdictions across the state, view the register of actions in a case, and view all case documents online. He noted the system will go through a three phased implementation approach. Slayton thanked the Supreme Court for promulgating standards on electronic filing. Concerns were raised on e-filing relating to making it mandatory, access to records, how to keep members informed, uniformity in e-filing and the standardizing of documents, costs, and processing of orders. One Board member mentioned that the single most common complaint he hears about from attorneys online concerns e-filing.

*At this time, Chair David Chamberlain informed the Board that President Allan and Pam DuBois’s daughter Lisa had passed away a few minutes ago, and a moment of silence was observed.*

E. Nominations & Elections Subcommittee:

Immediate Past Chair Roger Key reported that State Bar elections began on April 1 and will end on May 2 at 5:00pm. The candidates for President-elect concluded their campaigns at the end of March, and both candidates have run great campaigns. As of yesterday, 13.28% of attorneys have voted in the election. There are also 10 members of the Board

whose terms will be ending at the Annual Meeting in June. Out of those 10 positions, three of those races are contested. The terms for the new President-elect and district directors will begin at the 2016 Annual Meeting. [Exhibit K]

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

John Neal reported on the grievance committee appointment process, noting that gender, diversity, and areas of practice are important considerations when making those appointments. Neal also made remarks on the third quarter sanctions breakdown and the grievance referral program. [Exhibit L]

G. Texas Young Lawyers Association:

TYLA President Barrett Thomas reported on TYLA projects this year, noting that the theme was “Justice Through Education”. The website TYLAJusticeForAll.com was just launched, where viewers can watch high-profile exonerees share their experiences and listen to top experts discuss the major issues that cause wrongful convictions. Thomas thanked the Board for the opportunity to serve this year.

H. Administration Committee:

Andy Kerr reported that the Administration Committee approved proposed updates to the State Bar rules the day before the Board meeting. The updates are designed to streamline and improve membership processes. The first update adds a requirement that State Bar members provide an email address for use in the statewide e-filing system and to facilitate court communications. This change is sought by the Office of Court Administration and the Supreme Court of Texas to help centralize communication with attorneys as part of the statewide e-filing system. The update will create a new “registered email address” maintained by the State Bar to serve as the single and official source for e-filing. The second update outlines an improved process for voluntary resignation from State Bar membership for reasons other than in lieu of discipline. This is a streamlining of the process to enable resignations to be processed administratively by staff, instead of the current approach which requires judicial review of each request and administrative orders to be signed by the Supreme Court. The third update codifies the process for granting hardship waivers and military service waivers of membership fees and late payment penalties. The fourth update outlines a process for a one-time expunction of an administrative dues suspension if certain conditions are met. Upon Board approval, these rules updates will go to the Supreme Court for final consideration and promulgation.

**On behalf of the Administration Committee, Kerr moved to approve the recommended updates to Article III of the State Bar Rules; no second needed. Motion carried. [Exhibit M]**

The Committee also approved updated rules for hearings in student loan defaults, where an attorney is contesting the fact that a loan is in default. Currently these matters are referred by the Supreme Court to a special master in district court. While these appeals are rare, the process for their approval has proven confusing and unwieldy. Under the new rules, student loan default appeals will go before the Appeals-Grants Review Subcommittee of the Board for consideration.

**On behalf of the Administration Committee, Kerr moved to approve the recommended updates to the Supreme Court Rules governing student loan defaults; no second needed. Motion carried. [Exhibit N]**

Pat Maher reported on the work of the Employment/Salary/Evaluation Subcommittee, reviewing affiliated entities in according with Board policy 1.17. The subcommittee focuses on one entity each year, and this year the subcommittee reviewed the Texas Bar Foundation. The subcommittee reviewed a draft report along with audited financial statements, the independent auditor’s report, and the annual report. The subcommittee recommends the Texas Bar Foundation continue as is with no changes.

I. Audit and Finance Committee:

Brent Benoit reported that as of February 29, the general fund actual net revenues over expenditures and transfers totaled approximately \$2.1 million, and it showed a positive budgeted to actual net variance of approximately \$1.2 million. Ken Couch, Senior Managing Consultant from PFM Asset Management LLC, presented the investment report to the Audit & Finance Committee during their meeting the day before. 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 is highly liquid and maintains high credit quality. It generated a quarterly return of .14% which slightly underperformed the benchmark 6-month Merrill Lynch Treasury Index return of .17%. PFM representatives continue to work very closely with the Bar's CFO to place investments in those areas that will produce the highest yields – while maintaining safety of principal and liquidity as required by the Public Funds Investment Act.

**On behalf of the Audit and Finance Committee, Benoit moved for acceptance of the State Bar quarterly investment report for the quarter ending February 29, 2016; no second needed. Motion carried. [Exhibit O]**

J. Client Security Fund Subcommittee:

Gail Plummer reported that the Client Security Fund Subcommittee met the day before the Board meeting and reviewed 69 claims, for a total of \$388,855.31. To date, the fund has paid out \$814,436.66 this year.

K. Member Services and Education Committee:

Susan Nelson reported that the Professional Development Subcommittee met jointly with the CLE Committee on February 26 to hear staff reports on current operations and finances, and proposed several dozen topics for upcoming programs. CLE attendance at live CLE programs has declined, but revenue from online classrooms has shown a considerable increase. Curry Cooksey reported that the total number of individuals enrolled in one or more insurance products from the Texas Bar Private Insurance Exchange has increased by 20%, and major medical enrollments have increased by 40%. The Insurance/Member Benefits Subcommittee has asked the Insurance Exchange to look at making program enhancements to online group quoting and an association health plan. The subcommittee is also working on a new member benefits website for launch at the Annual Meeting, which will include a one-stop shop for new and existing member benefit vendors and a concierge travel service. Grant Scheiner reported on behalf of the Technology Oversight Subcommittee that work continues on the replacement of the MCLE management system. This project is on time for implementation this summer. The State Bar has donated 60 surplus computers to 9 different legal aid service providers around the state. Scheiner reported that on March 10, the State Bar learned of a security incident involving an outside payroll vendor in which W-2 forms for some current and former employees were compromised and fraudulent tax returns were filed in their names. Employees were immediately notified and have been provided with credit monitoring and identity restoration services. The subcommittee will continue to update the Board on this incident as needed.

L. Supreme Court Liaison:

Justice Johnson reported that the Court has been looking at three current issues: security issues regarding firearms/open carry; TBLIS and civil trial standards, child welfare standards and poverty law standards; and rules, specifically in response to Senate Bill 455 involving three-judge court rules.

M. Federal Judicial Liaison:

Judge Fred Biery reported on behalf of Judge Michael Keasler that Judge Barbara Hervey will be the incoming Board liaison for the Court of Criminal Appeals starting in June. Judge Biery reported that five individuals have been nominated to fill the five judicial vacancies in the federal districts in Texas, and Senator John Cornyn is working on confirming those appointments. Funding has been approved for construction on the new federal courthouse in San Antonio, and construction should begin in May.

N. Out-of-State Lawyer Liaison:

Tim Mountz reported that he worked with the State Bar communications team to send an e-blast to all out-of-state lawyers encouraging them to vote in the State Bar election this year and letting them know the Texas Lawyers Assistance Program resources are available to them, and to contact him if they have any questions or comments.

O. Executive Director:

Michelle Hunter presented Erin Feemster, Local Bar Services Coordinator, with the Employee of the Quarter Award.

There being no further business, the meeting was adjourned at 12:06 p.m.

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