

**OFFICIAL MINUTES
STATE BAR OF TEXAS
EXECUTIVE COMMITTEE MEETING
Texas Law Center
Austin, TX
Thursday, January 7, 2016**

The Executive Committee met on January 7, 2016 in Austin at the Texas Law Center. President Allan DuBois called the meeting to order at 10:30am, and Executive Director Michelle Hunter called the roll.

Present: Brent Benoit, Frank Carroll, Chair of the Board David Chamberlain, Alison Colvin*, Diane DeVasto, President Allan K. DuBois, Joe Escobedo, TYLA President-elect Sam Houston, Justice Phil Johnson*, Andy Kerr, Immediate Past Chair of the Board Roger Key*, Susan Nelson, Gail Plummer, Tino Ramirez*, President-elect Frank Stevenson, TYLA President Barrett Thomas, Andrew Wallace

Participating via teleconference: Tina Green*, Ford Sasser

**Nonvoting member*

I. APPROVAL OF MINUTES

Upon motion properly made by Frank Stevenson and seconded by Frank Carroll, the minutes of the September 10, 2015 Executive Committee meeting were approved as presented.

II. REPORTS

A. Report from the President: President Allan DuBois reported that after deadly tornadoes hit north Texas on December 26, the State Bar publicized its legal hotline and newly updated disaster relief web page. Another successful solo/small firm CLE event was held in September, and the next one will be in the Woodlands in conjunction with the January Board meeting. Thanks to fundraising efforts, more than \$370,000 has been raised for the Sheeran-Crowley Memorial Trust to support life-saving treatment for attorneys suffering from substance and mental health issues. The State Bar continues to promote the inspirational video, *Courage, Hope and Help: TLAP Is There*, in exciting ways. For several months, TexasBarCLE offered a 30-minute version of the video as a free ethics CLE. TYLA also hosted a free CLE event, *Breaking The Silence*, on December 3 in Austin which featured a panel discussion on mental illness and provided attendees with techniques on how to recognize and help colleagues.

President DuBois reported that the ABA's Commission on the Future of Legal Services has a resolution up for consideration at the February ABA Midyear meeting asking the ABA House of Delegates to approve what it describes as "model regulatory objectives for the provision of legal services." The ABA Commission on Legal Services was created in August 2014 to examine how legal services are delivered and to recommend innovations that improve the delivery of legal services and increase access to justice. The Supreme Court of Texas referred to the ABA Commission in its own order creating the Texas Commission to Expand Civil Legal Services, which is tasked with looking at proposals and initiatives to help close the justice gap. Concerns were expressed about the purpose of ABA resolution, which urges that the highest state court in every state be guided by those regulatory objectives when developing regulations for what the ABA resolution terms "non-traditional legal service providers," a particular phrase which created concern. The ABA Commission has focused in part on the judicial creation of categories of legal services providers other than lawyers to help meet unmet needs. This concept has been implemented in Washington State with the creation of "limited license legal professionals" to provide certain services to people who "only need limited assistance." There was discussion on whether the State Bar should publicly comment by way of a resolution, in advance of the February ABA Meeting, in order to communicate its concerns to the ABA House of Delegates. It was noted that the New Jersey State Bar has issued its own resolution expressing its objections. The Executive Committee agreed that the Board should draft its

own resolution expressing concerns about any resolution or policy that would presume, endorse, or promote the practice of law by non-lawyers, especially because the Texas Commission has not begun its work or issued a report, and present it for approval at the January Board meeting. President DuBois noted that the State Bar will not change its own longstanding commitment to and support of Access to Justice in Texas as one of its core objectives, and will continue to support new and innovative ways to increase access to justice.

B. Report from the Chair of the Board: Chair of the Board David Chamberlain reported that the Board will continue to reach out to local bar associations and deliver a State Bar Update CLE presentation. The district letters from board members were mailed in November, and the next correspondence from the board to their districts will be an e-blast, which is planned for late February. Chair Chamberlain reported that directors who are interested in running for next year's Chair of the Board should submit their letter of intent to run and statement of position by the following day. The New Lawyers Induction ceremony was held on November 16th, and pursuant to Senate Bill 534, a new oath was used to swear in new members. The bill's authors and sponsors, Senator Kirk Watson, Rep. John Smithee and Rep. Todd Hunter were there to commemorate the occasion.

C. Report from the President-elect: President-elect Stevenson reported on one of his priority programs for next year - legal incubator programs focused on improving legal service delivery through innovation and entrepreneurship. After considering several models, the State Bar decided that a legal incubator program in Texas modeled on the Justice Entrepreneur Project (JEP) of the Chicago Bar Foundation may have the best chance of success. The goals of incubator programs are to expand legal services and access to justice to low and moderate-income people, and to help newer lawyers learn how to start their own law firms and serve clients efficiently and effectively using cutting edge law office technology. The program curriculum will provide training, information exchange, and other programming to lawyers. President-elect Stevenson also envisions a learning lab within the incubator to coordinate pro bono opportunities for participants, oversee and track pro bono cases and outcomes, and coordinate training and mentoring of incubator attorneys with legal aid advocates. The State Bar intends to launch a pilot program based on the JEP model, and a board commitment of \$200,000 is requested to fund the program.

President-elect Stevenson reported that Budget Committee approved the FY 2016-17 budget as presented at its meeting on December 10. Some of the highlights of the proposed General Fund budget are as follows: a \$288,800 annual transfer to the Capital Equipment Replacement Plan; a \$400,000 annual transfer to the Technology Fund; and a \$300,000 annual transfer to the Client Security Fund. One of the Budget Committee's duties each year is to make a recommendation to the Board regarding the commitment of any increase in the fund balance resulting from the previous year's financial activities, and the audit report shows the total amount available for Board commitment is \$791,656. The Budget Committee is making the following recommendations to the Board for commitment of the available funds; \$200,000 to develop the new incubator program, \$500,000 to the Texas Access to Justice Foundation's Student Loan Repayment Assistance Program, \$150,000 to the Legal Aid Fellowship Program, and a \$6,456 proposed increase to the minimum reserve in order to maintain the minimum reserve at 2.7 months of budgeted operating expenses.

On behalf of the Budget Committee, President-elect Stevenson moved for approval of the SBOT FY 2016-17 proposed budget for publication in the March 2016 issue of the *Texas Bar Journal*; no second needed. Motion carried.

D. Administration Committee: Pat Maher reported that the Employment/Salary/Evaluation Subcommittee periodically reviews affiliated groups and reports to the Board on their operations and recommendations. Last June, the Board approved the subcommittee's recommendation that the State Bar end its affiliation with Texas Legal if it did not meet its goal of increasing the number of its in-force policies by 6% by December 31, 2015. Texas Legal has reported that it did not meet its goal, so the process has begun to end its affiliation with the State Bar. The final step is for the Board to approve restated bylaws and a new certificate of formation for Texas Legal. The changes are routine and simply remove the State Bar from any involvement in Texas Legal's operations. Texas Legal will continue to operate and exist without the State Bar affiliation.

On behalf of the Employment/Salary/Evaluation Subcommittee, Andy Kerr moved for approval of the restated bylaws and certificate of formation for Texas Legal; no second needed. Motion carried.

E. Audit & Finance Committee: Brent Benoit reported that as of November 30, the General Fund actual net revenues over expenditures and transfers totaled approximately \$862,316, which resulted in a positive budget to actual net variance of approximately \$559,253. Padgett Stratemann & Co., LLP has completed the financial audit for FY 2014-15, and it resulted in an unqualified opinion, often referred to as a clean opinion and is the best financial audit opinion available. Padgett Stratemann & Co. also included a letter, titled "Letter on Conduct of Audit & Management Letter Comments," that summarized the audit processes used by them and states that they encountered no difficulties during the audit. The CPA firm of Maxwell Locke & Ritter LLP has completed the State Bar's internal control audit for FY 2014-15, and it resulted in a finding of no material deficiencies. Representatives of both firms will present both audit reports to the Audit and Finance Committee at its meeting the day before the January Board meeting.

F. Nominations & Elections Subcommittee: Immediate Past Chair of the Board Roger Key reported that the subcommittee interviewed seven highly qualified individuals to be considered as potential nominees for President-elect. This is a small city year, meaning that attorneys could be considered from any of the non-metropolitan counties of the state. After much deliberation, the subcommittee voted to select Michael Smith of Marshall and Tom Vick of Weatherford.

On behalf of the Nominations and Elections Subcommittee, Immediate Past Chair Key moved for approval of Michael Smith (Marshall) and Tom Vick (Weatherford) as the State Bar candidates for President-elect for the 2016 election; no second needed. Motion carried.

Immediate Past Chair Key reminded the Board that there are limitations on what Board members can do in the campaigns for president-elect, in that they may not endorse, support, or participate in the campaigns in their official capacities. Additionally, there are 10 elected members of the board whose terms are expiring in June. Those individuals interested in running for director must submit a petition to the State Bar by March 1. The elections for President-elect and district directors begin on April 1 and end on May 2.

G. Member Services and Education Committee: Susan Nelson reported that the Professional Development Subcommittee met jointly with the CLE Committee on August 21 to discuss various programs, primarily webcasts, and the next meeting will be February 26. Nelson reported that the TexasBarCLE scholarship program continues to be a success and the number of recipients increases each year. Nelson also highlighted the work of the Insurance/Member Benefits Subcommittee, specifically the Texas Bar Private Insurance Exchange. Open enrollment began on November 1, 2015 and will end on January 31, 2016. The PIE conducted local bar enrollment presentations in Austin, Dallas and Houston from November 2-6. There are currently 11,602 individual enrollments in the PIE, and the total individuals enrolled in one or more insurance products has increased by 14%. The subcommittee will also be working to update the member benefits website to increase member awareness of the program.

H. Section Representatives to the Board: Alison Colvin reported on Section membership and that many Sections are wanting to get more involved. Several Sections are drafting and updating their bylaws.

I. Supreme Court Liaison: Justice Phil Johnson reported briefly on the work of the Texas Commission to Expand Civil Legal Services that was discussed earlier. The Court has also been in contact with the Sunset Review Commission and everything seems to be moving along.

J. Texas Young Lawyers Association: TYLA President Barrett Thomas reported on the public service project "*And Justice for All: Preventing Wrongful Convictions Through Education*," as well as TYLA's commitment to TLAP and issues of mental health and chemical dependency. TYLA will hold their Board meeting the following day in San Antonio.

K. Report from the Executive Director: Michelle Hunter asked KaLyn Laney to report on the Sunset Review Commission. The Sunset Review Commission will be attending the January Board meeting in the Woodlands, and Laney introduced Sean Shurtleff from the commission.

L. ***Closed Session***: At 1:10 p.m., the Executive Committee recessed the open meeting and reconvened in closed session pursuant to Texas Government Code, Section 551.071 and 551.074 for the purpose of consultation with legal counsel concerning contemplated litigation related to a MCLE Committee decision, and to deliberate concerning a personnel matter. With the exception of Board liaisons and Section representatives, all other individuals including non-essential staff and other guests excused themselves from the closed session.

Open Session: At 2:10 p.m., the open session of the Executive Committee meeting reconvened. During the closed session, only matters relating to consultations with legal counsel concerning contemplated litigation were discussed. No action was taken in closed session.

There being no further business, the meeting was adjourned at 2:12 p.m.