

**OFFICIAL MINUTES  
STATE BAR OF TEXAS  
BOARD OF DIRECTORS MEETING  
Marriott Marquis  
Houston, TX  
Wednesday, June 20, 2018**

The Board of Directors of the State Bar of Texas met in a regular session on June 20, 2018 at the Marriott Marquis in Houston. Chair of the Board Rehan Alimohammad called the meeting to order at 9:00 a.m., and Executive Director Trey Apffel called the roll. A quorum of voting board members was present. August Harris delivered the invocation and Ann Greenberg led the pledges to the U.S. and Texas flags.

**Present:**

**Board Members:** Jerry Alexander, Chair Rehan Alimohammad, Christy Amuny, Micah Belden, Jeff Chandler, Alison Colvin, Leslie Dippel, Estrella Escobar, Immediate Past Chair Joe Escobedo\*, Jarrod Foerster, Laura Gibson, Ricky Gonzalez, Ann Greenberg, August Harris, Angelica Hernandez, TYLA Immediate Past President Sam Houston, Sarah Keathley, Neil Kelly, President-elect Joe K. Longley, Aldo Lopez, Gary Nickelson, Chris Oddo, Amie Peace, TYLA President-elect Sally Pretorius, Curtis Pritchard, TYLA President Baili Rhodes, Lisa Richardson, Scott Rothenberg, Greg Sampson, Scott Sherwood, Rebecca Simmons, Dinesh Singhal, Immediate Past President Frank Stevenson, Scott Stolley, Andrew Tolchin, President Tom Vick, Nicole Voyles, Brad Weber, James Woo, and Michael Wynne.

**Liaisons\*:** Judge Barbara Hervey, Justice Phil Johnson, Judge Amos Mazzant, and Judge Jennifer Rymell

**Section Representatives\*:** Erich Birch, Wendy Burgower, Elizabeth Copeland, Philip Mack Furlow, Shelby Jean, and Audrey Moorehead

**Excused Absences:** Alan Carmichael, Michael Dokupil, Rice Horkey, David Kent, Bob McKnight, Rudy Metayer, Tim Mountz,\* and Fidel Rodriguez

(\* = nonvoting)

**I. CONSENT AGENDA ITEMS**

**C1. APPROVAL OF MINUTES:**

(Minutes Tab) Approval of minutes of Board meetings conducted on April 27, 2018

**C2. ITEMS FROM THE 2017-18 PRESIDENT:**

Approval of appointments to the following entities:

- A. Law Focused Education, Inc.,** for two-year terms effective June 1, 2018, through May 31, 2020:

**Jerry Polen (San Antonio)**

- B. Out-of-State Lawyer Liaison to the State Bar Board of Directors** for a three-year term effective Annual Meeting 2018 through Annual Meeting 2021:

**Linda S. Thomas (Bartlesville, OK)**

**C3. ITEMS FROM THE 2018-19 PRESIDENT:**

Approval of appointments to the following entities:

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

- A. Section Representatives to the Board Committee**, for three-year terms effective Annual Meeting 2018 through Annual Meeting 2021:

**Emily Miller (Brownwood) Large-Sized Section**  
**Matthew Kolodoski (Dallas) Small-Sized Section**

For a one-year term effective Annual Meeting 2018 through Annual Meeting 2019:

**Erich M. Birch (Austin), Chair**  
**Wendy S. Burgower (Houston), Vice-Chair**

- B. Texas Bar College**, for three-year terms effective June 1, 2018, through May 31, 2021:

**Kenda Culpepper (Rockwall)**  
**Natalie Koehler (Meridian)**  
**Caren Ka-Pik Lock (Lewisville)**  
**Hon. Ann-Marie Carruth (Lubbock)**  
**Richard L. Spencer (Houston)**

- C. Texas Access to Justice Commission**, for three-year terms effective June 1, 2018, through May 31, 2021:

**Alistair Dawson (Houston)**  
**Lourdes Flores (Austin)**  
**MariBen Ramsey (Austin)**

- D. Texas Access to Justice Foundation**, for three-year terms effective September 1, 2018, through August 31, 2021:

**Denise Scofield (Houston)**

- E. Texas Board of Legal Specialization**, for three-year terms effective July 1, 2018, through June 30, 2021:

**Tina Amberboy (Austin)**  
**Lisa Brown (Houston)**  
**Diane Dillard (Brownsville)**  
**William D. Elliott (Dallas)**

- F. Approval of appointments to the following standing committees (per State Bar Rules, Art. VIII, Section 1B):**

for three-year terms effective on the adjournment of Annual Meeting 2018 through the adjournment of Annual Meeting 2021:

**Administration of Rules of Evidence**  
 Jefferson Wendell Fisher (Beaumont)  
 Johnathan David Stone (Austin)

**Advertising Review**  
 Al Harrison (Houston)

**Bar Journal Board of Editors**

Thomas g. Keyser (San Antonio)

**Child Abuse and Neglect**

Stacy Rogers Sharp (San Antonio)

**Continuing Legal Education**

Frank L. Branson (Dallas)

Eun-Hwa Anna Ha (Houston)

**Court Rules**

Andrew Albert Jones (Dallas)

**Jury Service**

Sheryl Draker (Austin)

Jonathan Daniel Selden (Austin)

Jason W. Snell (Austin)

**Law Focused Education**

Raymond Joseph Baeza (El Paso)

**Law Practice Management**

Adam Jacob Loewy (Austin)

**Laws Relating to Immigration and Nationality**

Cynthia Renteria (Edinburg)

**Legal Services to the Poor in Criminal Matters**

Abner Burnett (Edinburg)

Jessica Canter (Beeville)

**Local Bar Services**

Cynthia Owens (Houston)

**Pattern Jury Charges –Business, Consumer and Employment**

Kiwi Camara (Houston)

Steve K. Hayes (Fort Worth)

Michael Wayne Massiatte (Plano)

**Pattern Jury Charges-Family and Probate**

Roxie Williams Cluck (Canton)

Susan Elizabeth Oehl (Houston)

Cindy Tisdale (Granbury)

**Pattern Jury Charges-General Negligence, Intentional Personal Torts & Workers Compensation**

Quinton Brogdon (Dallas)

Linda Dedman (Dallas)

Ronald Dean Gresham (Dallas)

**Pattern Jury Charges-Malpractice, Premises and Products**

Brent Ryan Walker (Dallas)

**Pattern Jury Charges-Oil and Gas**

Chris Hogan (Houston)

**Pattern Jury Charges-Oversight**

LaDawn Horn Conway (Dallas)

Mary T. Henderson (Austin)

**Professionalism**

Dana Harbin (Dallas)

**Public Affairs**

Catherine L. Morse (Austin)

**Women in the Profession**

Suzette Elizabeth Selden (Austin)

Jane Webre (Austin)

For one-year terms effective on the adjournment of Annual Meeting 2018 through the adjournment of Annual Meeting 2019:

**Bar Journal Board of Editors**

Victor Flores, TYLA President-elect (Plano)

**Council of Chairs**

Tina Green, Chair (Texarkana)

Meloney Cargil Perry, Vice-Chair (Dallas)

**Lawyers Assistance Program**

Victoria Mather, Chair (San Antonio)

Darren Bertin, Vice-Chair (Gatesville)

Erica Grigg, Advisory Member (Austin)

**Laws Relating to Immigration and Nationality**

Roberto Javier Rivera, Vice-Chair (Houston)

**Real Estate Forms**

Frederick J. Biel, Advisory Member (McAllen)

Cheryl R. Smith, Advisory Member (Frisco)

Monroe Gaddy Wells, Advisory Member (Arlington)

**C4. ITEMS FROM COMMITTEES AND SECTIONS/DIVISIONS:***(Yellow Tab A)* **A.** Tax Section updated bylaws*(Yellow Tab B)* **B.** Paralegal Division updated Bylaws**C5. OTHER ITEMS:****A. Nominating Committee to Select ABA Delegates (*Chair Frank Stevenson*)**

Approval of appointment of SBOT delegates to the American Bar Association House of Delegates, for two-year terms expiring at the adjournment of the 2020 ABA Annual Meeting:

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

**Tom Vick (Weatherford)**  
**Randall O. Sorrels (Houston)**  
**Chad Baruch (Dallas)**  
**Hon. Lora Livingston (Austin)**  
**Walter L. Sutton (Dallas)**

**Alternates:**

- 1. Scott Partridge (Houston)**
- 2. George Washington Jordan III (Houston)**

**B.** Approval of **Frank Stevenson (Dallas)** to serve as an officer of the Western States Bar Conference for a two-year term beginning 2020

**II. REPORTS**

**A. Report from the General Public:**

Carlos Leon of Austin addressed the board regarding a dismissed grievance.

**B. Report from the Executive Director:**

Director Trey Apffel reported on member outreach and various speaking engagements to a number of groups. He reported that he has resumed the Executive Director’s Page column in the *Bar Journal*. He also said that the Bar has launched the Technology Resources webpage as a hub for technology-related articles, law practice management resources, and short technology videos produced by TexasBarCLE and the Computer & Technology Section. The State Bar has also launched a podcast in partnership with the Legal Talk Network. Mr. Apffel reported that the Bar has created the “Our Finances” page on the State Bar website to inform the public about the finances of the State Bar. He reported that to increase transparency, the Bar initiated resources to video record State Bar board meetings and post them online. Mr. Apffel also reported that the State Bar is the recipient of the ABA Tweed Award, gave an update on Law Night at the Ballpark, and related that the Staff Excellence Award will be presented to Caryn Truitt. {EXHIBIT A}<sup>1</sup>

**C. Report from the Chair of the Board:**

**Chair of the Board Rehan Alimohammad stated that he would be using “Unanimous Consent Rules” in Roberts Rules of Order. Chair Alimohammad asked if there were any objections to approving the amendment to the previous minutes regarding the attendance of a director as well as the items on the current consent agenda. No objection; Consent Agenda approved. {Consent Agenda}**

Chair Alimohammad thanked the Board and staff for their hard work during his term as chair. He reported that there were director presentations in all 17 districts this year. Mr. Alimohammad announced the recipient of the Outstanding Third-Year Director award, Andrew Tolchin. Mr. Alimohammad presented Philip Mack Furlow with the Michael J. Crowley award and August Harris with the Public Member Award.

**D. Report from the President:**

President Tom Vick reported on his travels since the April board meeting and that he attended the Roundtable on Well-being in the Legal Profession to review findings of the National Task Force on Lawyer Well-Being. Mr. Vick reported that the State Bar of Texas is a recipient of the American Bar Association’s 2018 Harrison Tweed Award for access-to-justice efforts. Before going in to closed session, Mr. Vick discussed the draft of the annual executive director evaluation form and asked for board input and suggestions. {EXHIBIT B}

1) **Closed Session:** At 1:43 p.m., Chair Alimohammad announced that the board of directors would meet in closed session as authorized by Texas Government Code, Section 551.071 for the purpose of discussing the

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evaluation, duties, and compensation of the executive director and for the purpose of consulting with legal counsel, including regarding pending or contemplated litigation (*Jovita Pardo v. the State Bar of Texas et al.*); and Section 551.074 to deliberate regarding personnel matter(s).

2) **Open Session:** Upon return to open session at 2:23 p.m., Chair Alimohammad announced that only matters relating to the evaluation, duties, and compensation of the executive director and matters regarding pending litigation and consultation with legal counsel were discussed. No action was taken in closed session.

**In open session, President Tom Vick, on behalf of the Executive Director Evaluation Subcommittee, made a motion for approval of the recommendation of Executive Director Trey Apffel's annual salary to be \$298,000.00 effective June 1, 2018, and approval for Mr. Apffel to be paid a salary increase above the current pay grade for the executive director position, which is pay grade 54. Seconded by Director Estrella Escobar. No discussion. Motion carried.**

E. Report from the Federal Judicial Liaison:

Judge Mazzant reported that there have been three new federal judges confirmed: two in the Fifth Circuit and one district judge in Brownsville. There are several judges waiting for confirmation. Judge Mazzant thanked the Board for allowing him to serve as liaison and announced his replacement, newly confirmed judge Karen Gren Scholer from the Northern District of Texas.

F. Report from the President-elect: President-elect Joe K. Longley reported that the budget was presented to the Supreme Court of Texas on May 14, 2018, and that the Court signed the order approving the budget on May 29, 2018. **{EXHIBIT C}**

Mr. Longley reported on the work of both task forces. Mr. Mark Ticer, chair of the Transparency Task Force, addressed the board with his report on the task forces work to date as well as its objectives. Discussion ensued and Randy Sorrels spoke as a member of the public.

**The Board recessed at 3:42 pm and returned at 3:55 pm.**

**Director Scott Sherwood moved that the Board affirm that the duration of the two task forces, both the Transparency Task Force and the Financial Responsibility and Fiscal Control Task Force, expire and terminate, per the terms of the policy manual, at the expiration of the president-elect's tenure as president-elect. Or in the alternative, that the Board take action and discontinue each of these task forces at that date and time, and that date and time being when the president-elect's tenure expires. Director Scott Stolley seconded. Various points of order were raised and ruled upon. Motion carried.**

G. Report from the Audit & Finance Committee:

Mr. Harris reported that during the April 2018 Board Meeting a motion was passed charging the Audit and Finance Committee with the duty to issue a Request for Proposal to independent consulting firms for services related to Transparency. The goal of this engagement is to 1) confirm the existence of processes to ensure compliance with governing statutes, laws, and policies related to transparency, including the State Bar Act, State Bar Rules, Texas Public Information Act, and the Texas Open Meetings Act, and 2) to consider any best practices that might enhance organizational transparency beyond the requirements of governing laws, rules, and policies. The Audit and Finance Committee conducted interviews with three firms and selected Weaver as a finalist to complete the engagement.

**On behalf of the Audit and Finance Committee, Director Harris moved to approve the engagement of Weaver as the Bar's independent consultant to complete an examination of the State Bar's Transparency efforts and issue a report on the examination results. Coming from a committee, no second was needed. No discussion. Motion carried.**

Mr. Harris reported that during the April Board meeting, then-President-Elect Joe Longley asked that the Audit and Finance Committee take up the question raised regarding whether the State Bar should issue a 1099 to a former employee for funds embezzled from 2005 through 2012 from a Supreme Court account, that, at the time, was outside the scope of the State Bar's audit. On May 9<sup>th</sup>, the Audit and Finance Committee discussed the approach to answer this question and instructed the Bar to seek outside counsel from a reputable firm with experience in tax law regarding this situation. The Bar consulted with Kelli Todd, who is a partner at the law firm of Martens, Todd, Leonard & Ahlrich, who recommended against issuing a 1099 or reporting the matter to the IRS. {EXHIBIT H}

**Director Harris made a motion that the Bar make no filing with the IRS or issue a federal tax form to the former employee regarding the embezzled funds. Discussion ensued. Motion carried.**

Director August Harris reported that as of April 30, the General Fund actual net revenues over expenditures and transfers totaled approximately \$2.9 million. The fiscal year 2017-2018 financial audit will be conducted by RSM. The financial audit fieldwork is scheduled for two weeks in July and six weeks beginning August at the Texas Law Center. The audited financial statements and report to the Board of Directors will be provided to the Board in January.

- H. Report from TYLA: President Baili Rhodes reported on the TYLA State Moot Court Competition held in conjunction with the Annual Meeting, and various projects that TYLA has worked on over the past year. Her goal for the TYLA board this year was "Ignite and Unite"- an effort to bring more service to local communities. TYLA held a diversity dinner in Austin and a lawyer legends panel in order to bring lawyers from all ages and backgrounds together. Ms. Rhodes reported that TYLA completed the following projects: Updated various disaster relief manuals, added new video content to "Not A Victim," created a new website for survivors of domestic violence and elder abuse, published a written PDF for victims of any crimes, launched "Spanish for Lawyers," and launched "Teach Safe, Learn Safe, and Be Safe," which is geared towards educators, administrators, and parents. She announced that the TYLA Annual Meeting will begin on June 22 and thanked the Board for its continued support for TYLA.
- I. Report from the Immediate Past President: Immediate Past President Frank Stevenson reported that the General Counsel search committee voted to elect Ross Fischer as General Counsel. Mr. Stevenson reported that at the January Board meeting, the board unanimously voted to approve the hiring of a General Counsel on a part-time, as-needed basis. The board also agreed to structure the position as an independent contractor that will be separate from the Bar's in-house legal counsel. {EXHIBIT D}

**On behalf of the General Counsel search Committee, Mr. Stevenson moved that the State Bar Board of Directors elect Ross Fischer as General Counsel, under the compensation and terms of engagement as specified in Mr. Fischers' RFP response. Seconded by Director Andrew Tolchin. No discussion. Motion carried.**

- J. Report from the Court of Criminal Appeals:  
Judge Barbara Hervey reported on the Judicial Mental Health Commission and related that she had met with the chief of police in Houston on mental health training for street officers. She reported that the Court will be going out of session at the end of June. Judge Hervey attended a conference in Iowa on bridging forensic science with the law and that the Court will be working with Texas Rangers on a Symposium on Crime Scene Investigation.
- Nominations & Elections Subcommittee: Immediate Past Chair Joe Escobedo reported that Randy Sorrels of Houston was elected President-elect of the State Bar. Mr. Escobedo reported that there was an increase in participation in the election, with 32,643 people voting. He reported that 10 new district directors were elected, five in contested races and the other 5 unopposed. Mr. Escobedo said that the Supreme Court of Texas amended the State Bar Rules to also include an expiry for signatures for director and President-elect candidates. It is

slightly different from the board's version, instead of a 180-day timeframe in the rule, the Court set a hard date of September 1. The Board-nominated candidates will be named at the September meeting. Because the State Bar Rules prevail over Board policy, the policy manual will be updated to reflect September 1 instead of 180 days. **{EXHIBIT E}**

- K. Policy Manual Subcommittee: Director Philip Mack Furlow reported that there were three revisions for action: Disaster Response Plan (7.01.03), Reimbursement of Expenses (3.07.01), and Qualifications of Officers and Directors (1.03.05). **{EXHIBIT F}**

**Director Furlow moved that the Board approve the revisions to Policy Manual Sections 7.01, 3.07, and 1.03 as recommended by the Policy Manual Subcommittee. Coming from a committee, no second was needed. No discussion; motion carried.**

- L. Commission for Lawyer Discipline/Chief Disciplinary Counsel Update: Pablo Almaguer reported on various items including Sunset review recommendations to CFLD that were effective June 1, 2018. He reported that there are new sanction guidelines used by the Courts and that there is a new Ombudsman position. The CDC has had 490 complaints, 332 sanctions, and \$294,000 in recovered attorney's fees. **{EXHIBIT G}**
- M. Administration Committee: No report.
- N. Client Security Fund Subcommittee: Director Lisa Richardson reported that the committee reviewed 39 submissions, for a total of: \$142,976.48. For the year 2017-2018, the committee paid out a total of \$941,718.68. With the replenishing of the fund on June 1, 2018, plus what the Board and Court authorized, the starting balance for FY 18-19 bar year will be a little over one million dollars.
- O. DCAAP Subcommittee: Director Greg Sampson reported that there were two action items for the Board to consider. First, the DCAAP committee reviewed the attorney advertising rules report forwarded to them by the Board in April. The committee is asking the Committee on Disciplinary Rules and Referenda to initiate the rule review process. **{EXHIBIT I}**

**On behalf of the DCAAP Committee, Director Sampson made a motion to submit the Advertising Review Committee report to the Committee on Disciplinary Rules and Referenda and request initiation of the rule proposal process on the lawyer advertising rules. Coming from a committee, no second was needed. No discussion. Motion carried.**

Mr. Sampson reported that the DCAAP Committee received a joint resolution passed by the Board Professional Development Committee and the Continuing Legal Education Standing Committee and a similar resolution passed by the Computer and Technology Section of the Bar. These resolutions propose making a slight change to comment 8 of Rule 1.01 of the Texas Disciplinary Rules of Professional Conduct. They propose adding language that encourages lawyers to understand the benefits and risks associated with relevant technology.

**On behalf of the DCAAP Committee, Director Sampson made a motion to approve the submission of resolutions from the PDP and CLE Committee and the Computer and Technology Section regarding proposed amendment to Comment 8 of Rule 1.01 Texas Disciplinary Rules of Professional Conduct to the Supreme Court of Texas. Coming from a committee, no second was needed. No discussion. Motion carried.**

- P. New Directors Orientation Subcommittee: Director Chris Oddo thanked his committee for its time and energy. He reported that all the statutory required orientation and training was completed.
- Q. Professional Development Subcommittee: Director Gary Nickelson reported that the 2018 recipient of the Gene Cavin Excellence in CLE award is Professor Wayne Scott of St. Mary's School of Law. In September 2017, TexasBarCLE created two free webcasts: "Handling Hurricane and Catastrophe Claims" and "Counseling the



Landlord and Tenant in the Wake of a Hurricane.” Since September, 19,000 people have watched the two programs, totaling more than 24,000 hours of free CLE to help attorneys assist people affected by disasters. Mr. Nickelson reported that Texas lawyers may request full or partial scholarships from TexasBarCLE for one multi-day or two one-day live or video seminars or up to 15 hours of online classes per year. In the last fiscal year, TexasBarCLE has awarded 425 scholarships for live and video courses and 138 for online classes. TexasBarBooks’ revenue from the library of online subscription manuals for the 17-18 FY was more than 50 percent higher than expected and nearly double the revenue from the previous year. Sales of print books were about 10 percent lower than expected.

- R. Insurance/Member Benefits Subcommittee: Director Scott Rothenberg reported on the Texas Bar Private Insurance Exchange and that individuals participating in the PIE increased by 16%. This year the benefits program generated \$969,388 in non-dues revenue, an eight percent increase since last year. With the addition of advertising and sponsorship the program brought in a total of 1.2 million.
- S. Technology Oversight Subcommittee: Director Andrew Tolchin reported that the MCLE tracking system was replaced, the Bar is designing a new Advertising Review System, telephones and network systems have been upgraded, and new video teleconference systems have been implemented. Mr. Tolchin reported that there have been improvements on the profile and attorney search functions of TexasBar.com
- T. Legislative Policy Subcommittee: Director Michael Wynne reported that the next Legislative session will begin on January 8, 2019, and that proposals need to be in bill form by July 12, 2018.
- U. Section Representatives to the Board Committee: Director Audrey Moorehead had no report.
- V. Supreme Court Liaison: Justice Phil Johnson reported on various Court matters including the Bar Exam Task Force and that the most recent report is posted on the Court’s website. He reported that proposed disciplinary rules and amendments are before the Court and that they will be retroactive to June 1, 2018. Justice Johnson reported on the amendments to Bar Rules regarding the new September 1<sup>st</sup> date for District Director elections, and introduced Ross Fischer as the new general counsel to the board.
- W. Judicial Section Liaison: Judge Jennifer Rymell reported that the Judicial Section met last month with five positions to fill. and that the Judicial Compensation Committee is meeting to take testimony from different entities to discuss judicial compensation for the 2019 Legislative session. Judge Rymell introduced Judge Randy Clapp as the new Judicial Section liaison to the Board.
- X. Out of State Lawyer Liaison: No report.
- Y. Legal Counsel report: No report.
- Z. For Information only: End of year reports and State Bar committee and section reports **{EXHIBIT J}**

**There being no further business, the meeting was adjourned at 5:46 pm.**