

**OFFICIAL MINUTES
STATE BAR OF TEXAS
BOARD OF DIRECTORS MEETING
Holiday Inn Downtown Marina – Texas Riviera Ballroom
797 N. Shoreline Blvd.
Corpus Christi, TX 78401
Friday, September 20, 2019 – 9:00 am**

The Board of Directors of the State Bar of Texas met in a regular session on September 20, 2019, at the Holiday Inn Downtown Marina in Corpus Christi, TX. Chair Jerry Alexander called the meeting to order at 9:00 am, and Executive Director Trey Apffel called the roll. A quorum of voting Board members was present. Director David Kent delivered the invocation, and Director Bob McKnight led the pledges to the United States and Texas flags.

Present:

Board Members: Chair Jerry Alexander, Andres Almanzan, Kate Bihm, Luis Cardenas, Alison Colvin, Derek Cook, Rob Crain, Christina Davis, Alistair Dawson, Leslie Dippel, Michael Dokupil, TYLA President Victor Flores, Jarrod Foerster, Immediate Past Chair Laura Gibson*, Charlie Ginn, Shari Goldsberry, TYLA President-elect Britney Harrison, Wendy-Adele Humphrey, Michael Hurst, Neil Kelly, David Kent, Immediate Past President Joe K. Longley, President-elect Larry McDougal, Bob McKnight, Steve Naylor, Amie Peace, TYLA Immediate Past President Sally Pretorius, Adam Schramek, David Sergi, Alan Sims, Jason Smith, President Randy Sorrels, Diane St. Yves, Santos Vargas, Michael Vasquez, Nicole Voyles, Amy Welborn, and James Woo.

Liaisons*: Justice Benavides, Denise Hoggard, and Judge Richardson

Section Representatives*: Judge Copeland, Deborah Cordova, Shelby Jean, Matthew Kolodoski, Emily Miller, and Kathryn Murphy

Excused Absences: Jeff Allison, Rebekah Brooker, Marc Gravely, August Harris, Justice Lehrmann*, Aldo Lopez, Yolanda Cortes Mares, Judge Richardson*, Carmen Roe, Dinesh Singhal, and James Wester.

(* denotes nonvoting)

CONSENT AGENDA ITEMS {**Exhibit A**}¹:

C1. APPROVAL OF MINUTES:

(Minutes Tab) Approved of minutes of Board meetings conducted on June 12-13, 2019.

C2. ITEMS FROM THE PRESIDENT:

Approved of appointments to the following entities:

a. Delegates to the 2019 Fifth Circuit Judicial Conference:

President Randall O. Sorrels	Immediate Past President Joe K. Longley
President-elect Larry P. McDougal	Chair of the Board Jerry Alexander
Executive Director Trey Apffel	TYLA President Victor Flores

b. At-large Directors Nomination Committee

Wendy-Adele Humphrey, chair
Andres E. Almanzan
Luis M. Cardenas
Alison W. Colvin
Britney E. Harrison

¹ Exhibits are available at www.texasbar.com/board

- c. **Out of State Lawyer Liaison to the State Bar Board of Directors** to fill an unexpired term through Annual Meeting 2021:

Denise Reid Hoggard (Little Rock, AR)

- d. **Committee on Disciplinary Rules and Referenda:**

For a term effective January 1, 2020, through December 31, 2021:

M. Lewis Kinard (Dallas), chair

For terms effective January 1, 2020, through December 31, 2023:

Amy Enlow Bresnen (Austin)
Harold Frederick Hagan (Denton)

- e. **Texas Real Estate Commission Broker/Lawyer Committee**, for terms effective September 1, 2019 through August 31, 2025:

Sarahjane “SJ” Davidson Swanson (Houston)
Aimee Slusher (Lufkin)

C3. ITEMS FROM COMMITTEES AND SECTIONS/DIVISIONS:

- a. Approved of appointments to the following standing committees (Per State Bar Rules, Art. VIII, Section 1B):

For terms effective August 15, 2019, through the adjournment of Annual Meeting 2020:

Jury Service

Joseph Cox (Dallas), Vice Chair

Laws Relating to Immigration and Nationality

Robert Loughran (West Lake Hills), Advisory

Professionalism

Liza Green (Houston), Advisory

C4. ITEMS FROM COMMITTEES AND SECTIONS/DIVISIONS *continued*:

For terms effective August 15, 2019, through the adjournment of Annual Meeting 2022:

Advertising Review

Ron Lucas (Houston), Public Member

Legal Services to the Poor in Civil Matters

Keri Brown (Houston), Member

Minimum Continuing Legal Education

Danielle Rushing (San Antonio), Member

Public Affairs

Zeke Fortenberry (Dallas) Member

(Yellow Tab A) b. Workers’ Compensation Section Updated Bylaws

(Yellow Tab B) c. Criminal Justice Section Updated Bylaws including dues increase from \$20 to \$30

(Yellow Tab C) d. Oil, Gas and Energy Resources Law Section Updated Bylaws

(Yellow Tab D) e. Tax Law Section Updated Bylaws

(Yellow Tab E) f. African American Lawyers Section Updated Bylaws

(Yellow Tab F) g. Immigration and Nationality Law Section Updated Bylaws

(Yellow Tab G) h. Judicial Section Updated Bylaws

(Yellow Tab H) i. Child Protection Law Section Updated Bylaws

C4. OTHER ITEMS:

(Yellow Tab I) a. **Approved of resolutions honoring:**

Tracy Figueroa
Audrey M. Vicknair

I. REPORTS:

A. Remarks from the General Public:

Cara Miller and Sheila O'Connor Allen addressed the board.

B. Presentations of Citations:

President Randy Sorrels presented resolutions to Tracy Figueroa and Audrey M. Vicknair.

C. Swearing-in of New Board Members:

Judge Richardson swore in Judicial Section Liaison, Justice Gina Benavides, and Out-of-State Lawyer Liaison Denise Reed Hoggard.

D. Report from the Executive Director:

Executive Director Trey Apffel reported on travels, meetings, and activities since the June 2019 meetings. Mr. Apffel gave updates on suicide prevention awareness, NABE, the Governor's Executive Development Program, Solo/Small Firm CLE, online membership fee payments, uniform bar exam, TOJI, and the McDonald case. He presented the staff excellence award to Candace Miller and Michelle Townley. **{Exhibit B}**¹

E. Report from the Chair:

Chair Jerry Alexander congratulated Section Representative Elizabeth Copeland, who was appointed as a judge on the United States Tax Court and welcomed Justice Benavides to the board. Chair Alexander reported on recent State Bar related travels, board member outreach efforts, the board portal, the board schools supplies drive, and the solicitation of candidates to serve as Chair of the 2020-21 board.

Director Shari Goldsberry made a motion to approve the minutes of the June 12-13, 2019, Board meetings and the Consent Agenda Items. Director Michael Hurst seconded. No discussion; motion carried. **{Exhibit C}**

F. Report from the President:

President Randy Sorrels welcomed new out-of-state lawyer liaison, Denise Hoggard. President Sorrels encouraged directors to run for president and chair of the board of directors. He reported on his recent State Bar related travels, meetings, and the new idea of the month. He reminded directors to use the board portal. **{Exhibit D}**

¹ Exhibits are available at www.texasbar.com/board

President Sorrels made a motion that the Board delegate authority to the Administration Committee to study, in coordination with the Access to Justice Foundation, and if warranted make a request to the Texas Supreme Court for rules changes that would allow an IOLTA deposit exemption for advanced flat fees below a certain amount. Seconded by Director Neil Kelly, no discussion. Motion carried.

President Sorrels made a motion to approve appointments to the Social Media Engagement Team. Seconded by Director Kate Bihm. No discussion; motion carried.

President Sorrels made a motion for the election of an appointee to the State Commission on Judicial Conduct, for a term effective November 20, 2019, through November 19, 2025. Candidates: Christy Amuny (Beamont) and Steve Fischer (El Paso). Discussion ensued. Vote taken via paper ballot. Steve Fischer was elected as appointee to the State Commission on Judicial Conduct.

G. Report from the President-elect:

President-elect Larry McDougal reported on TLAP and presented a TLAP video to the board. He reported that the Budget Committee had its first meeting September 19 and discussed the State Bar's budget process and the timeline for preparation of the fiscal year 2020-21 budget. The Budget Committee will meet Thursday, December 12, to finalize a proposed fiscal year budget for presentation to the Executive Committee and to the Board at their respective January meetings. {Exhibit E}

H. Report from the Immediate Past President:

Immediate Past President Joe K. Longley reported on TLAP and the upcoming budget process.

I. Succession Planning Workgroup:

Immediate Past Chair Laura Gibson gave a brief update on the working group's activities.

J. Report from the Nominations and Elections Subcommittee:

Immediate Past Chair Laura Gibson reported that the subcommittee decided that it would focus on nominees from non-metropolitan counties of the state. The subcommittee interviewed six highly-qualified individuals, and after deliberation the subcommittee voted to select Pablo Almaguer (Edinburg), and Sylvia Borunda Firth (El Paso). {Exhibit F}

On behalf of the Nominations and Elections Subcommittee, Immediate Past President Joe K. Longley moved that the Board approve Pablo Almaguer of Edinburg and Sylvia Borunda Firth of El Paso as the State Bar Candidates for President-elect for the 2020 election. No discussion, motion carried.

Chair Alexander invited Section Representative Deborah Cordova to introduce Pablo Almaguer and Director Andy Almanzan to introduce Sylvia Borunda Firth, who each made brief remarks.

K. Report from the Policy Manual Subcommittee:

Director Neil Kelly made a motion to approve updates to the Policy Manual regarding codes of conduct, including anti-harassment requirements, for State Bar activities, meetings, and events. Coming from a committee, no second was needed. No discussion, motion carried. {Exhibit G}

Chair Alexander recessed the board at 11:28 am and the board returned to business at 11:59 am.

L. Audit & Finance Committee:

Director Jarrod Foerster reported on the State Bar financial reports and provided a general review of financial statements. Barry Baughier gave the Investment Manage annual presentation to the board. Foerster reported on a dues expenditure objection by Shawn Adair Hall Lecuona. {Exhibit H}

On behalf of the Audit & Finance Committee, Director Jarrod Foerster made a motion to deny Lecuona's expenditure objection. Coming from a committee, no second was needed. No discussion; motion carried.

On behalf of the Audit & Finance Committee, Director Jarrod Foerster made a motion to accept the May and August 2019 State Bar Quarterly Investment Reports. Coming from a committee, no second was needed. No discussion; motion carried.

On behalf of the Audit & Finance Committee, Director Jarrod Foerster made a motion to approve these entities to provide Public Funds Investment Act training for State Bar staff and new directors. Coming from a committee, no second was needed. No discussion; motion carried.

On behalf of the Audit & Finance Committee, Director Jarrod Foerster made a motion to adopt the current PFM Dealer/Broker list for investments. Coming from a committee, no second was needed. Discussion ensued; motion carried.

On behalf of the Audit & Finance Committee, Director Jarrod Foerster made a motion to approve the adoption of the State Bar of Texas investment policy. Coming from a committee, no second was needed. No discussion; motion carried.

M. Report from the Administration Committee:

Director Rob Crain reported that the Legislature passed HB 3040 to provide for an interim study by the Texas Commission on Judicial Selection regarding the method by which certain trial and appellate judges are selected. Based upon the others chosen to make appointments, the committee felt that the Legislature was looking to the State Bar to appoint a practicing attorney rather than a judge. After discussion and consideration, the committee recommended Lynne Liberato for the State Bar's Appointee to the Judicial Selection Commission. **{Exhibit I}**

On behalf of the Administration Committee, Director Rob Crain made a motion to approve the appointment of Lynne Liberato (Houston) to the Texas Commission on Judicial Selection. Discussion ensued, the board voted via paper ballot, and the motion carried.

N. Report from the Performance Measures and Strategic Planning Subcommittee: No Report.

O. Report from the Facilities Subcommittee: No report.

P. Minimum Continuing Legal Education Committee:

John Boyce reported that the MCLE Committee has proposed changes to the MCLE Regulations that would change the accreditation fee schedule. The reasons for the change include simplification of accreditation fee charges for sponsors, increases in efficiency, and cost savings for the State Bar by preventing refunds and credits of less than \$20 (which cost more to process than \$20). **{Exhibit J}**

Director Charlie Ginn made a motion to approve proposed amendments to sections 10.3.1-10.3.3 and 11.0 of the Texas MCLE Regulations. Seconded by Director Jarrod Foerster, no discussion, motion carried.

Q. Report from the DCAAP Subcommittee:

Director Steve Naylor reported that the committee's main function is to be the board's eyes and ears to review proposed changes to disciplinary rules and to the disciplinary system. He reported that based on the deadlines required in the State Bar Act, and the number of steps that still have to occur, it is unlikely there will be a membership vote on new rules this bar year. The approval of the proposals by the board and the submission to the Supreme Court will likely be done in the second half of this year. **{Exhibit K}**

R. Report from the Client Security Fund Subcommittee:

Director Bob McKnight reported that the subcommittee met on Thursday, September 19, and reviewed 50 applicants, resulting in a total disbursement of \$59,328 to 21 applicants. The total paid out through the fund for the 2019 year was \$208,060.06. **{Exhibit L}**

Director Bob McKnight made a motion to approve proposed amendments to Section 3.08.02 of the Board Policy Manual pertaining to the Client Security Fund Rules. Coming from a Committee no second was needed. No discussion, motion carried.

S. Report from Insurance Member Benefits Subcommittee:

Director Leslie Dippel gave an update on the Texas Bar Private Insurance Exchange and non-insurance member benefits. She reported that the subcommittee has been working on a succession planning project. **{Exhibit M}**

On behalf of the Insurance member Benefits Subcommittee, Director Leslie Dippel made a motion to approve recommendations regarding the insurance exchange provider contract and delegation of authority to the Insurance/Member Benefits Subcommittee to negotiate and finalize an agreement. Coming from a committee, no second was needed. No discussion; motion carried.

T. Report from the Appeals Grant Subcommittee:

Director Amie Peace reported that on September 4, 2019, the Subcommittee heard the appeal of a Texas Board of Legal Specialization decision brought by applicant, Mr. Justin Pfeiffer. The Subcommittee, applying the substantial evidence standard, found in favor of the TBLS. **{Exhibit N}**

Director Amie Peace made a motion that the Board uphold the decision of the Texas Board of Legal Specialization denying Mr. Pfeiffer's application for certification in Civil Appellate Law. Coming from a committee, no second was needed. No discussion, motion carried.

U. Report from the Professional Development Subcommittee:

Director Nicole Voyles reported that the CLE Committee and the Board PDP Subcommittee will meet December 18 to discuss new topics for CLE programs and publications, finances, and operations. She reported that on September 10, TexasBarCLE and TLAP presented a free webcast on What Lawyers Need to Know About Depression and Suicide. She also reported that TexasBarBooks' Texas Probate System Online received an Award of Outstanding Achievement in Technology from the Association for Continuing Legal Education (ACLEA).

V. Report from the Technology Oversight Subcommittee: No report.

W. Report from the Commission for Lawyer Discipline, Chief Disciplinary Counsel Update:

Chief Disciplinary Counsel Seana Willing reported the new vice-chair of the Commission for Lawyer Discipline is Gena Bunn, that the Commission resolved 110 complaints resulting in 98 sanctions. She announced that a Grievance Symposium will be held in May 2020 at the Texas Law Center. Discussion ensued. **{Exhibit O}**

X. Report from the Section Representatives:

Section Representative Emily Miller updated that the Section Representatives will be working with the Policy Manual Subcommittee to establish a procedure to ensure that sections maintain their fiduciary responsibilities and are of service to their members.

Y. Texas Young Lawyers Association:

TYLA President Victor Flores reported on TYLA activities at the ABA YLD annual meeting: TYLA Proud To Be An American," and the fatigue discussion panels received an award. He reported that TYLA is focusing on Attorney Wellness and that TYLA is working on a new hub with materials and podcasts available for attorneys. He also reported on the Texas Bar Foundation Grant "Your Voice Now." President Flores reported that TYLA was asked to go to Washington, D.C. to promote and provide resources regarding other advocacy trial competitions.

Z. Report from the Supreme Court: No report.

AA. Report from the Court of Criminal Appeals:

Judge Richardson reported that the Court of Criminal Appeals was recognized in another area in the scientific community that tends to exonerate defendants who've been locked up for decades, and that is bite-mark evidence. He reported that the Court of Criminal Appeals will have oral arguments every other Wednesday.

BB. Federal Judicial Liaison: No report.

CC. Judicial Section Liaison:

Justice Benavides gave an update on approved bylaw amendments, and judicial compensation, which became effective September 1. She reported that the Judicial Section is partnering with the Supreme Court Historical Society, who partnered with the Law Related Education Committee from the State Bar and is helping the, assisting putting together "Taming Texas," which will allow the Judicial Section become more involved in carrying out civic duties in the school system.

DD. Out-of-State Lawyer Liaison Report:

New director Denise Hoggard introduced herself to the board and thanked President Sorrels for her appointment.

EE. Texas Access to Justice Foundation:

Past President Terry Tottenham reported on behalf of the ATJ Foundation, and thanked TYLA President Victor Flores and TYLA for all of their help with Veterans.

Closed Session: At 1:56 pm, the State Bar Board of Directors recessed the open meeting and reconvened in closed session pursuant to Texas Government Code Section 551.071 for the purpose of consulting with legal counsel, including regarding pending or contemplated litigation (*McDonald et al. v. Sorrels et al;* and *Rosalinda Solis v. Interra Sky 4801 Woodway, L.L.C (No. 2019-18261 in the District Court of Harris County)*). 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 2:08 pm, the open session of the State Bar Board of Directors meeting reconvened. During the closed session, only matters relating to consultations with legal counsel concerning litigation and other confidential legal advice were discussed. No action was taken in closed session.

There being no further business, the meeting was adjourned at 2:09 pm.

Exhibits referenced in these minutes are available online at texasbar.com/board