

STATE BAR OF TEXAS

BOARD OF DIRECTORS

Friday, April 17, 2020 – 9:00am

*Via Telephonic Open Meeting Pursuant to Governor’s March 16, 2020,
Temporary Suspension of Certain Open Meetings Provisions**

Members of the Public:

View the meeting via PC, Mac, iOS or Android Device:

www.youtube.com/statebaroftexas

Public comments will be received starting at approximately 9:15 am. To participate by providing public comment during the meeting, please email lowell.brown@texasbar.com or call (800) 204-2222, Ext. 1713 (toll free) before 5:00pm Thursday, April 16, 2020. Please provide the agenda item number you wish to speak on.

Link to April 17, 2020, Board of Directors Agenda and Materials:

www.texasbar.com/bodmaterials

The Board of Directors of the State Bar of Texas met in a regular session on April 17, 2020, via telephonic open meeting pursuant to Governor’s March 16, 2020, temporary suspension of certain open meetings provisions. Chair Jerry Alexander called the meeting to order at 9:04 am, and Executive Director Trey Apffel called the roll. A quorum of voting Board members was present. Director James Wester delivered the invocation, and Director Jeff Allison led the pledges to the United States and Texas flags.

Present:

Board Members: Chair Jerry Alexander, Jeff Allison, Andres Almanzan, Kate Bihm, Rebekah Brooker, 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, Marc Gravely, August Harris, TYLA President-elect Britney Harrison, Wendy-Adele Humphrey, Michael Hurst, Neil Kelly, David Kent, Immediate Past President Joe K. Longley, Aldo Lopez, Yolanda Cortes Mares, President-elect Larry McDougal, Bob McKnight, Steve Naylor, Amie Peace, TYLA Immediate Past President Sally Pretorius, Carmen Roe, Adam Schramek, David Sergi, Alan Sims, Dinesh Singhal, Jason Smith, President Randy Sorrels, Diane St. Yves, Santos Vargas, Michael Vasquez, Nicole Voyles, Amy Welborn, James Wester, and James Woo.

Liaisons*: Denise Hoggard, Justice Debra Lehrmann, Judge Richardson, and Judge Xavier Rodriguez

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

Excused Absences: Justice Gina Benavides*

(* denotes nonvoting)

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

C1. APPROVAL OF MINUTES:

(*Minutes Tab*) a. Approval of minutes of Board meeting conducted on January 24, 2020

C2. ITEMS FROM THE PRESIDENT:

Approval of appointments to the following entities:

a. **2020-2021 Special Committee to Nominate ABA Delegates:**

Laura Gibson, *Chair* (Houston)

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

Kim Askew (Dallas)
Jay Ray (Plano)
Hon. Jennifer Rymell (Fort Worth)
William LaFuze (Houston)

b. Commission for Lawyer Discipline:

1) for one-year terms effective September 1, 2020, through August 31, 2021:

Gena Bunn, Chair (Longview)
Roberto Ramirez, Vice Chair (McAllen)

2) For three-year terms effective September 1, 2020, through August 31, 2023:

Magali Suarez Candler (Houston)
Sally Pretorius (Dallas)

c. Law Focused Education, Inc for two-year terms effective June 1, 2020, through May 31, 2022:

Sabrina S. Blankenship, (Lubbock)
Jerry Polen (San Antonio)
Daniel Hu (Houston)
Mary Lee Webeck (Houston)

d. Texas Center for Legal Ethics, for three-year terms effective June 1, 2020, through May 31, 2023:

Barbara Bass, Public Member (Tyler)
Allan DuBois (San Antonio)
Victoria Mather (San Antonio)

e. 2020 Annual Meeting co-chairs

Quentin Brogdon (Dallas)
Ellen Farrell (Plano)
Amy M. Stewart (Dallas)

C3. ITEMS FROM THE PRESIDENT-ELECT:

(Yellow Tab A) **a. Approval of appointments:** State Bar committees, chairs, co-chairs, vice chairs, co-vice chairs, and members to serve during the year 2020-21 bar year per State Bar Rules, Art. VIII, Section 1B

b. Texas Bar Foundation Board of Trustees

1) For three-year terms, effective June 1, 2020, through May 31, 2023:

Jennifer Chiang (Sugarland)
Jarrod T. Foerster, Public Member (Houston)

2) For a one year term, effective June 1, 2020, through May 31, 2021:

Shari Goldsberry, Board Liaison (Texas City)

C4. ITEMS FROM COMMITTEES AND SECTIONS/DIVISIONS:

(Yellow Tab B) a. Tax Section Updated Bylaws

C5. OTHER ITEMS

(Yellow Tab C) a. **Approval of recipients for the pro bono and indigent defense awards to be presented at the Annual Meeting:**

- 1) Pro Bono Award:
El Paso Probate Bar Association (El Paso)
- 2) Frank J. Scurlock Award:
Jodi Goodwin (Harlingen)
- 3) The J. Chrys Dougherty Legal Services Award:
Lindsay Kinzie, The Gatehouse (Grapevine)
- 4) W. Frank Newton Award:
Rackspace Legal Team (Windcrest)
- 5) Pro Bono Coordinator Award:
Greg Zlotnick, St. Mary's University School of Law (San Antonio)
- 6) Warren Burnett Award:
David G. Hall (Weslaco)
Ariel Payan (Austin)
- 7) Michael K. Moore Award for Excellence in Research or Writing in the Area of Indigent Criminal Defense:
Dr. Andrew Davies (Dallas)
- 8) Pro Bono Support Staff Award:
Julie Sherman (Fort Worth)
- 9) Judge Merrill Hartman Pro Bono Judge Award:
Judge Lela Mays (Dallas)

(Yellow Tab D) b. **Approval of recipient of the Nancy Garms Award:**
Timothy Dowling (Corpus Christi)

(Yellow Tab E) c. **Approval of recipient of the Hon. Leon Jaworski Award for Teaching Excellence:**
Josh Caldwell (San Antonio)

e. 2020 Annual Meeting Resolutions Committee:

Officers:

Chair: *SBOT Immediate Past Chair of the Board*

Laura Gibson (Houston)

Vice-Chair: *TYLA Chair*

Courtney Barksdale Perez (Dallas)

Secretary: *Local Bar Leaders Committee Chair*

Hon. Mike Davis (Palestine)

Parliamentarian: **Jerry Alexander (Dallas)**

Alternates:

Robert Crain (Dallas)

David Kent (Dallas)

Review Committee:

Jerry Alexander (Dallas)

Rebekah Brooker (Dallas)

Michael Hurst (Dallas)

I. REPORTS:

A. Remarks from the General Public:

Ruth Kollman of Houston, TX addressed the board regarding transparency in State Bar governance and regulations.

B. Report from the Chair:

Chair Jerry Alexander gave a communications update regarding the district emails that were distributed in early March and thanked directors contributed articles to their local bar newsletters.

Chair Alexander made a motion to approve the minutes of the January 24, 2020, Board meeting and the Consent Agenda Items. Director Yolanda Cortes Mares seconded. No discussion; motion carried. {Exhibit A}

Chair Alexander made a motion to approve the use of online voting for election of 2020-21 Board Chair-Elect. Director Diane St. Yves seconded. No discussion; motion carried.

Chair Alexander conducted the election of the 2020-21 Chair of the Board. By online voting, Charlie Ginn (McKinney) was elected. {Exhibit B}¹

C. Report from the Executive Director:

Executive Director Trey Apffel reported on travel, meetings, and activities since the January 24, 2020, board meeting. Mr. Apffel also gave an overview of the State Bar of Texas response, operations, and events during the COVID-19 pandemic. He reported on free legal resources for the public and membership fees collection. He updated the board on both 1415 Lavaca and mandatory bar challenges. **{Exhibit C}**

D. Report from the Supreme Court:

Justice Lehrmann reported on the unified bar exam, the Court's 11 issued emergency orders in response to COVID-19, oral arguments that will be held via Zoom, and that the Supreme Court has scheduled the SBOT Budget Hearing for May 11.

E. Report from the President:

President Randy Sorrels reported on member and public service and outreach during the COVID-19 response. Mr. Sorrels reported that the ABA has formed a task force of volunteer lawyers and judges to identify and respond to unmet legal needs arising from the coronavirus pandemic and announced the launch of the custodian designation portal. President Sorrels discussed a letter from state Commission on Judicial Conduct regarding Commissioner Steve Fisher of El Paso. **{Exhibit D}**

President Sorrels made a motion for the appointment of David N. Calvillo (Houston) as at-large director to the Board of Directors, for a three-year term, effective Annual Meeting 2020, and expiring Annual Meeting 2023. Director Diane St. Yves seconded. No discussion ensued; motion carried.

President Sorrels made a motion that the Board approve a resolution in support of judicial independence. Seconded by Director Adam Schramek. No discussion; motion carried.

President Sorrels made a motion that the Board approve the resolution to grant authority to the Executive Director to take emergency actions as needed in response to COVID-19 emergency. Director Michael Hurst seconded. Discussion ensued; motion carried.

President Sorrels made a motion that the Board ratify the Ad Hoc Submission Committee's decision to grant permission for the Family Law Section to file an amicus brief in *In Re C.J.* (No. 19-0694) in the Texas Supreme Court. Director Yolanda Cortes Mares seconded. No discussion; motion carried.

F. Report from the President-elect:

President-elect Larry McDougal gave an update on how the State Bar can help lawyers serve their clients during the coronavirus crisis. Mr. McDougal reported that former State Bar President Richard Pena and Judge Lora Livingston

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

received the American Bar Association Spirit of Excellence Award on February 15, and that he and Trey Apffel were in attendance at the awards luncheon. {Exhibit E}

President-elect Larry McDougal made a motion to approve the creation of a workgroup on the Texas Opportunity and Justice Incubator. Immediate Past president Joe K. Longley seconded. No discussion; motion carried.

President-elect Larry McDougal made a motion of approval of SBOT 2020-21 proposed budget for presentation to the Supreme Court of Texas. No second was needed; no discussion. Motion carried.

G. Report from the Immediate Past President: No report.

H. Board of Nominations & Elections Subcommittee:

Immediate Past President Joe K. Longley reported that as of April 17, 2020, 12.07% of 105,000 State Bar members had voted online. Immediate Past Chair Laura Gibson reported that the subcommittee voted to conduct the election by only online balloting due to the COVID-19 crisis and that they voted to extend the election deadline from April 30 to May 29 to allow lawyers extra time to vote. Ms. Gibson reported that the president-elect candidates and the district directors agreed to stop in-person campaigning due to coronavirus concerns and that the results of the election will be posted on the State Bar website on the evening of May 29, 2020. {Exhibit F}

I. Report from the Policy Manual Subcommittee:

Director Neil Kelly reported that the subcommittee has been working with the section representatives and are waiting on revisions on Part 5 of the Policy Manual for consideration by the subcommittee and then the Board at its upcoming June meeting.

J. Report from the DCAAP Subcommittee:

Director Steve Naylor reported that at the January 2020 meeting the board sent the lawyer advertising rule proposals back to the CDRR, requesting that they consider amending the proposed rules to be consistent with the majority of other states on the issue of trade names. Mr. Naylor reported that the CDRR developed and published a revised advertising proposal to address concerns regarding trade names and that there will be a public hearing on April 7, 2020. {Exhibit G}

Director Steve Naylor made a motion to approve the proposed amendments relating to rules 3.01, 3.02, and 3.03 of the Texas Rules of Disciplinary Procedure. Coming from a committee, no second was needed. No discussion; motion carried.

Director Steve Naylor made a motion that the Board hold rule proposals 3.01-3.03 of the Texas Rules of Disciplinary Procedure just approved, for submission to the Supreme Court at a later date as a bundle with other proposed rules, as deemed appropriate by the Board. Coming from a committee, no second was needed. No discussion; motion carried.

Director Steve Naylor made a motion that the Board approve a resolution requesting the CDRR to initiate the rule proposal process to address the voluntary appointment of custodian attorneys to assist with the temporary cessation of practice due to a disabling circumstance. Coming from a committee, no second was needed. No discussion; motion carried.

K. Report from the Client Security Fund Subcommittee:

Director Bob McKnight reported that the subcommittee met twice via Zoom. On March 21, 2020, the subcommittee reviewed 23 applications seeking a total of \$182,784.53, all of which the subcommittee approved for payment. The subcommittee met on April 16, 2020, reviewing 44 applications seeking a total of \$143,441.83, all of which the subcommittee approved for payment. To date, the Client Security Fund has paid out \$1,080,879.36 for the bar year.

Chair Alexander recessed the board at 11:05 am, and the board returned to business at 11:16 am.

L. Audit & Finance Committee:

Director Jarrod Foerster presented the State Bar financial reports and provided a general review of the financial statements. {Exhibit H}

On behalf of the Audit & Finance Committee, Director Jarrod Foerster made a motion to approve the selection of CPA firm, Weaver, as the State Bar’s financial auditors for a period of up to 5 fiscal years. 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 entering into a contract with PFM Asset Management LLC to serve as the State Bar’s Investment Manager for fiscal years 20-21 and 21-22. 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 February 29, 2020, Quarterly Investment Report. 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 Internal Audit Reports from McConnell & Jones for the Fiscal Year ended May 31, 2019. Coming from a committee, no second was needed. No discussion; motion carried.

M. Report from the Commission for Lawyer Discipline, Chief Disciplinary Counsel Update: No report. {Exhibit I}

N. Report from the Administration Committee:

Director James Wester gave an update on the study of potential IOLTA deposit exemptions for advanced flat fees below a certain amount.

O. Report from Affordable Legal Services Subcommittee: No report.

P. Report from the Performance Measures & Strategic Planning Subcommittee:

Director David Kent reported that the Strategic Plan is up for review in 2020 and that a board planning session is scheduled for July 2020. He reported that the subcommittee helps to plan the July retreat and that they’ve retained Elizabeth Derrico for the strategic planning session.

Q. Report from the Appeals Grant Subcommittee: No report.

R. Report from the Professional Development Subcommittee:

Director Nicole Voyles reported that in early March, because of restrictions on group gatherings and shelter in place orders, TexasBarCLE rescheduled most of the live seminars scheduled through May 10, 2020, to later in the summer and fall and that TexasBarCLE has provided three free webcasts on COVID-19 related legal issues. Ms. Voyles reported that TexasBarBooks is offering Texas Bar members free access to the Texas Guardianship Manual Online through May 31 and that the Family Law Section created a Motion and Order for use of Emergency Procedures, and that TexasBarBooks has worked with the Harris County Law Library and with the Dallas Bar Association to make materials and forms, particularly certain advance directive forms, available to the public during the COVID-19 pandemic.

S. Report from new Directors Orientation:

Director Alison Colvin reported that the subcommittee held a meeting on April 13, 2020, via Zoom where they discussed the plan for New Directors Orientation that is scheduled for June 24, 2020, in conjunction with Annual Meeting. Ms. Colvin reported that there will be a total of 21 new directors including section representatives and liaisons.

T. Report from Insurance Member Benefits Subcommittee:

Director Leslie Dippel gave an update on the Texas Bar Private Insurance Exchange and non-insurance member benefits.

U. Report from the Section Representatives to the Board Committee:

Section Representative Emily Miller reported that the Sections department cancelled 22 CLEs, meetings, and retreats and that they were able to reschedule most of these events. She reported that each Section has been asked to develop and document the policies and procedures they use to handle their finances. Ms. Miller reported that the Section Representatives to the Board Committee and the leadership of the Council of Chairs have been working on a list of suggested improvements to the Board Policy Manual for sections.

V. Texas Bar Foundation:

Tino Ramirez provided an overview on what services and funding the Texas Bar Foundation provides in the form of grants.

W. Texas Young Lawyers Association:

TYLA President Victor Flores thanked the board for its continued support and reported that all TYLA projects will be completed on time. Mr. Flores reported on the TYLA attorney wellness website, that there will be no in-person component for their April board meeting and that the National Trial Competition has been cancelled. He acknowledged president-elect Britney Harrison for her work with LeadershipSBOT.

X. Report from the Court of Criminal Appeals:

Judge Richardson reported that the court has been active and using Zoom for conferences and oral arguments.

Y. Federal Judicial Liaison:

Judge Rodriguez reported that trials have been suspended for civil and criminal hearings, that detention centers are concerned about COVID-19, and that the courts are doing video conferences for pleas, accepting waivers of sentencing on paper alone.

Z. Judicial Section Liaison:

Judge Les Hatch reported on behalf of Justice Gina Benavides. He reported that he will be the new 2020-21 liaison to the Board, that the Office of Court Administration has made available to all judges a Zoom license, and that the Texas Center for the Judiciary has cancelled all hearings.

AA. Out-of-State Lawyer Liaison Report: No report.

BB. Report from General Counsel: No report

CC. Report from Legal Counsel:

1. Closed Session:

At 12:36 pm, the State Bar Board of Directors recessed the open meeting and reconvened in closed session pursuant to Texas Government Code Sections 551.071 Closed Session as authorized by Texas Government Code Section 551.071(1) for the purpose of consulting with legal counsel, including regarding all pending or any contemplated litigation (including regarding *McDonald et al. v. Sorrels et al* (No. 19-cv-00219 in the Western District of Texas), *Rosalinda Solis v. Interra Sky 4801 Woodway, L.L.C* (No. 2019-18261 in the District Court of Harris County), and *LawHQ v. Willing* (No. 20-cv-00085 in the Western District of Texas); letter from State Commission on Judicial Conduct regarding Commissioner Steve Fischer of El Paso; and State Bar insurance coverage; and Section 551.074 to deliberate regarding personnel matter(s). 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.

2. Open Session: At 1:19 p.m., 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 contemplated litigation were discussed. No action was taken in closed session.

DD. **There being no further business, the meeting was adjourned at 1:19 pm.**

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