

**OFFICIAL MINUTES
STATE BAR OF TEXAS
BOARD OF DIRECTORS**

Wednesday, June 24, 2020 – 9:00am

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

The Board of Directors of the State Bar of Texas met on June 24, 2020, via Zoom. Chair Jerry Alexander called the meeting to order at 10:00 am, and Executive Director Trey Apffel called the roll. A quorum of voting Board members was present. Director Alan Sims delivered the invocation, and Director Derek Cook led the pledges to the United States and Texas flags.

Present:

Board Members: Chair Jerry Alexander, Jeff Allison, Andres Almanzán, Kate Bihm, Rebekah Brooker, Luis Cardenas, Alison Colvin, Derek Cook, Christina Davis, Alistair Dawson, Leslie Dippel, Michael Dokupil, TYLA President Victor Flores, Jarrod Foerster, Immediate Past Chair Laura Gibson*, Chair-elect 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 Marés, 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*: Justice Gina Benavides, Denise Hoggard, Justice Debra Lehrmann, Judge Bert Richardson, and Judge Xavier Rodriguez

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

(* denotes nonvoting)

CONSENT AGENDA ITEMS {Exhibit A}¹:

C1. APPROVAL OF MINUTES:

- A. Approval of minutes of Board meeting conducted on April 17, 2020
- B. Approval of amended minutes of Board meeting conducted on January 24, 2020

C2. ITEMS FROM THE 2020-21 PRESIDENT:

Approval of appointments to the following entities:

- A. **Section Representatives to the Board Committee**, for three-year terms effective Annual Meeting 2020, through Annual Meeting 2023:

Carlos Eduardo Cárdenas (El Paso), Large-Sized Section
Michael Smith (Marshall), Medium-Sized Section

For a one-year term effective Annual Meeting 2020 through Annual Meeting 2021:

Emily Miller (Brownwood), chair
Matthew Kolodoski (Dallas), vice chair

- B. **Texas Bar College**, for three-year terms effective June 1, 2020, through May 31, 2023:

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

Al Harrison (Houston)
Michelle Hunter (Austin)
Justice Erin Nowell (Dallas)
Jessica Phillips (Fort Worth)
Hon. Roy Graham Quisenberry, III (Weatherford)

- C. Texas Access to Justice Commission**, for three-year terms effective June 1, 2020, through May 31, 2023:

Chad Baruch (Dallas)
Smaranda Draghia (San Antonio)

- D. Texas Access to Justice Foundation**, for three-year terms effective September 1, 2020, through August 31, 2023:

Pete Gallego (Alpine)
Roland K. Johnson (Fort Worth)

- E. Texas Board of Legal Specialization**, for three-year terms effective July 1, 2020, through June 30, 2023:

David Johnson (Fort Worth)
Hon. Tuck Moody McLain (Anderson)
Lance Sharp (Austin)
Kristal Thomson (San Antonio)

- 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 2020 through the adjournment of Annual Meeting 2023:

C2. ITEMS FROM THE 2020-21 PRESIDENT (continued):

Continuing Legal Education

Hon. Daryl Moore (Houston)

Disability Issues

Daphne Silverman (Austin)

Jury Service

Michael Shoemaker (Houston)

PJC Criminal

Thomas Ross (Houston)

Members Serving on Multiple Committees

Hon. Daryl L. Moore (Houston)

Texas Bar Journal Board of Editors

Lucy Forbes (Houston)

For one-year terms effective on the adjournment of Annual Meeting 2020 through the adjournment of Annual Meeting 2021:

Texas Bar Journal Board of Editors

Jeanine Novosad Rispoli (Waco)

Local Bar Services

Hon. Mike Davis (Palestine), chair

Rudy Metayer (Austin), vice chair

PJC Business

Jeremy Stone (Houston) Advisory Member

Public Affairs Committee

Michelle Latray (Groesbeck), vice chair

C3. ITEMS FROM COMMITTEES AND SECTIONS/DIVISIONS:

A. Tax Section Updated Bylaws

C4. OTHER ITEMS:

A. Nominating Committee to Select ABA Delegates (*Chair Laura Gibson*)

Approval of appointment of SBOT delegates to the American Bar Association House of Delegates, for two-year terms expiring at the adjournment of the 2022 ABA Annual Meeting:

George Washington Jordan III (Houston)

Hon. Lora Livingston (Austin)

Walter Sutton (Dallas)

Alternates:

Scott Partridge (Houston)

Lacy Durham (Dallas)

B. Approval of resolution honoring:

Karen D. McCloud (Dallas)

I. REPORTS:

A. Report from the Chair:

Director Charlie Ginn made a motion to approve the minutes of the Consent Agenda Items. Director Diane St. Yves seconded. No discussion; motion carried.

Chair Jerry Alexander gave an overview of the bar year, including: the State Bar phone tree; encouraging directors to seek suggestions from their member constituents; updates to member benefits; the creation and distribution of the plastic Member Benefits cards; the *McDonald* lawsuit; and the September 2019 board collection of school supplies. Chair Alexander honored Director Leslie Dippel with the Outstanding Third Year Director Award and Director Jarrod Foerster the Public Member Award. **{Exhibit B}**¹

B. Report from the Executive Director:

Executive Director Trey Apffel reported on an overview of the State Bar of Texas response, operations, and events during the COVID-19 situation. He also reported on the 2020 Annual Meeting on Demand, CLE programming, and

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

the swearing in of State Bar President Larry McDougal and TYLA President Britney Harrison. Mr. Apffel reported that the State Bar implemented additional recommendations from the 2018 Weaver transparency review. He reported that the State Bar has launched its online digital archives and a portal to help Texas lawyers with the task of succession planning and emergency preparedness and provided an update on 1415 Lavaca. He gave a response to the killing of George Floyd and his commitment to the rule of law and equal justice. {Exhibit C}

C. Report from Outside Counsel:

Outside Counsel Tom Leatherbury provided an update on *McDonald v. Sorrels* and *LawHQ v. Willing*.

D. Report from the President:

President Randy Sorrels reported on how the State Bar can help lawyers serve their clients during the coronavirus crisis. He provided an end of the year report that included: the expansion of member benefits and enhanced communication with members to better serve Texas lawyers; providing free CLE; and working with the Texas Supreme Court and with local bars on their initiatives. He presented the following Presidential Citations: Director August Harris, Director David Kent, Director Bob McKnight, John Sirman, Amy Starnes, and all employees in Information Technology/IT, the Law Practice Management Program, TexasBarCLE, and TLAP. {Exhibit D}

E. Closed Session: At 11:14 am, the State Bar Board of Directors recessed the open meeting and reconvened in closed session pursuant to Texas Government Code Section 551.074 for the purpose of discussing the evaluation, duties, and compensation of the executive director and general counsel. With the exception of HR, all other individuals including non-essential staff and other guests excused themselves from the closed session.

Chair Alexander took item 24 out of order as authorized by Texas Government Code Section 551.071 for the purpose of consulting with legal counsel regarding all pending or any contemplated litigation (including *McDonald et al. v. Sorrels et al* (No. 20-50448 in the Fifth Circuit Court of Appeals), *Rosalinda Solis v. Interra Sky 4801 Woodway, L.L.C* (No. 2019-18261 in the District Court of Harris County), *Samantha Carter v. Vuk Vujasinovic, et al* (No. 3:20-cv-01199-L-BT in the Northern District of Texas), and *LawHQ v. Willing* (No. 20-cv-00085 in the Western District of Texas); State Bar insurance coverage; Section 551.072 to deliberate regarding the potential purchase of real property at 1415 Lavaca St. in Austin; 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.

F. Open Session: At 12:03 pm, the open session of the State Bar Board of Directors meeting reconvened. During the closed session, only matters relating Texas Government Code Section 551.074 for the purpose of discussing the evaluation, duties, and compensation of the executive director and general counsel and Texas Government Code Section 551.071 for the purpose of consulting with legal counsel regarding all pending or any contemplated litigation (including *McDonald et al. v. Sorrels et al* (No. 20-50448 in the Fifth Circuit Court of Appeals), *Rosalinda Solis v. Interra Sky 4801 Woodway, L.L.C* (No. 2019-18261 in the District Court of Harris County), *Samantha Carter v. Vuk Vujasinovic, et al* (No. 3:20-cv-01199-L-BT in the Northern District of Texas), and *LawHQ v. Willing* (No. 20-cv-00085 in the Western District of Texas); State Bar insurance coverage; and Section 551.072 to deliberate regarding the potential purchase of real property at 1415 Lavaca St. in Austin; and Section 551.074 to deliberate regarding personnel matter(s) were discussed. No action was taken in closed session.

G. Report from the President-elect:

President-elect Larry McDougal gave an update on how the State Bar can better help lawyers serve their clients during the coronavirus crisis. {Exhibit E}

President-elect Larry McDougal made a motion to approve continued authority for the Ad Hoc Submission Committee and Litigation Subcommittee to make decisions regarding *McDonald v. Sorrels* and related matters, as needed. Immediate Past President Joe K. Longley seconded. Discussion ensued; motion carried.

President-elect Larry McDougal made a motion to approve the creation of the presidential Task Force on Criminal Court Proceedings regarding the resumption of criminal jury trials. Immediate Past President Joe K. Longley seconded. No discussion; motion carried.

H. Report from the Immediate Past President:

I. Immediate Past President Joe K. Longley reported on his three years with the board recalling that he ran as petition candidate with over 5,800 signatures. He reported that his mission of having the bar conduct its business differently than it did three years ago was accomplished and he committed his continued help in making this the best bar in the United States.

J. Report from the Nominations and Elections Subcommittee:

Immediate Past President Joe K. Longley and Immediate Past Chair Laura Gibson reported that the 2020 election for President Elect was totally unprecedented in the State Bar's 81-year history, and that this race was the second closest race in the history of the State Bar, with a difference of 37 votes. The closest differential was in the election of 1943 where there was a 14 vote difference. Sylvia Borunda Firth of El Paso was declared the winner of the President Elect race. **{Exhibit F}**

K. Report from the Policy Manual Subcommittee:

Director Neil Kelly made a motion to approve revisions of Policy Manual Sections 5.01 and 5.02.04 related to State Bar Sections. Coming from a committee, no second was needed. No discussion; motion carried. {Exhibit G}

L. Annual Meeting Resolution:

Immediate Past Chair Laura Gibson reported that there is a process for members to propose resolutions for the Annual Meeting for consideration by the Resolutions Committee and, if adopted, for consideration by the General Assembly of members present at the meeting. If adopted by the General Assembly, the resolution comes to the State Bar Board for consideration. **{Exhibit H}**

There was one proposed resolution submitted by James Lee Murphy. Since there was no in-person Annual Meeting, Director Trey Appfel waived all policy manual requirements regarding resolutions and the Annual Meetings Resolutions Committee and directed that the proposed resolution come directly to the board for consideration in lieu of the Resolutions Committee.

Mr. James Lee Murphy addressed the board regarding his proposed resolution. There was no motion made; no discussion; resolution not adopted.

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

N. 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. Mr. Kent recommended that the board retain Elizabeth Derrico for the strategic planning session.

O. Report from the Supreme Court:

P. Justice Lehrmann reported on the Texas Supreme Court's response to the COVID-19 crisis, with 17 emergency orders issued. She reported that if a party wants an in-person hearing, their county has to have had an operating safety plan approved by their regional judges and the Office of Court Administration. Justice Lehrmann reported that the Board of Law Examiners is allowing the July bar exam to go forward, and another one is scheduled for September. She further reported that the bar exam has been reduced to two days.

The board recessed at 1:01 pm for ten minutes.

Q. Report from the DCAAP Subcommittee:

Director Steve Naylor reported on proposed amendments to the Texas Disciplinary Rules of Professional Conduct, and explained that the current projection is that rules vote could be conducted in February 2021. If the court orders a rules vote, there will be a communications campaign to educate lawyers about the rule proposals. **{Exhibit I}**

Director Naylor made a motion to approve the recommendations regarding proposed amendments to Part VII of the Texas Disciplinary Rules of Professional Conduct. Coming from a committee; no second was needed. Motion carried.

Director Steve Naylor made a motion to approve proposed Rule 13.04 of the Texas Rules of Disciplinary Procedure. Coming from a committee, no second was needed. Motion carried.

Director Steve Naylor made a motion that the Board hold the rule proposals just approved, Part VII of the Texas Disciplinary Rules of Professional Conduct, and Rule 13.04 of the Texas Rules of Disciplinary Procedure, 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. Motion carried.

R. Report from the Professional Development Subcommittee:

Director Nicole Voyles reported that TexasBarCLE was in a very strong financial position as of the end of April with more than \$500k in excess net revenue over budgeted projections. She reported that TexasBarCLE has converted all live seminars to a webcast format through the end of August. Director Voyles reported that in response to the COVID-19 pandemic, Texas Bar Books gave free access to the Texas Guardianship Manual Online to Texas bar members during April and May so that attorneys could use the manual to serve the needs of clients seeking advance planning documents such as medical directives and powers of attorney. She reported that there are several temporary emergency orders issued by the Texas Supreme Court in response to the Coronavirus pandemic that are relevant to Texas Bar Books practice manuals, which can be found online at texasbarbooks.net.

S. Report from the Client Security Fund Subcommittee:

Director Bob McKnight reported that the subcommittee met on Tuesday, June 23, and reviewed 35 applications, resulting in a total disbursement of \$98,391.90. Mr. McKnight reported that for the 2019-2020 bar year, the fund has reviewed 265 applications, and 169 applications were approved for payments totaling \$970,174.79 paid out of the fund.

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

CFLD Chair Noelle Reed reported on the Commission's response to the COVID-19 conditions and that the Commission is conducting its orientation and training of grievance committee members by Zoom. Investigatory hearings continue to be conducted via Zoom by the agreement of parties, and evidentiary hearings remain postponed until the court's emergency orders expire. Ms. Reed reported that the grievance symposium will be postponed and that CDC staff in Austin, Dallas, Houston, and San Antonio continue to work remotely and are fully operational. **{Exhibit J}**

U. Audit & Finance Committee:

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

On behalf of the Audit & Finance Committee, Director Jarrod Foerster made a motion to accept the May 31, 2020 State Bar Quarterly Investment Reports. Coming from a committee, no second was needed. No discussion; motion carried.

V. Report from Affordable Legal Services Subcommittee:

Section Representative Shelby Jean reported that the Affordable Legal Services Committee provides leadership in implementing the goals for legal services to low-income people in Texas and recommends appropriate amendments to the board. Ms. Jean thanked the members of the committee and Chair Alexander for their input and time. She reported that the committee met and considered two areas that seemed most relevant to the charter – legal incubators and limited scope representation. The committee heard from the director of the Texas Opportunity and Justice Incubator (TOJI), and learned that a draft civil procedure rule is currently being considered by the Supreme Court of Texas that would permit limited scope representation and address the concerns that surround such representation.

W. 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.

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

Y. Report from New Directors Orientation:

Director Alison Colvin reported that New Directors Orientation took place for all of the new board members, liaisons, and section representatives and that all new directors will be sworn in on June 25, 2020.

Z. Report from Insurance Member Benefits Subcommittee:

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

AA. Report from the Technology Oversight Subcommittee:

Director Aldo Lopez reported on the progress of several projects that are underway at the State Bar of Texas. He reported that the IT department is in the final phase of deploying its cloud solution to Microsoft 365 and that renovations to the IT and Audio-visual equipment at the Texas Law Center have begun.

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

Section Representative Emily Miller reported that the State Bar Sections continue to adapt and provide great value to their membership during these very unusual times. She thanked the Section Representatives to the Board and the Chair and Vice Chair of Council of Chairs for their efforts towards developing the new Board policies for sections.

CC. Texas Young Lawyers Association:

TYLA President Victor Flores thanked President Sorrels, the board, and staff for their continued support. Mr. Flores reported on the completion of two guides: Attorney Billing Guide and Retention Guide.

DD. Report from the Court of Criminal Appeals:

Judge Richardson reported on his replacement, Judge Kevin Yeary, the procedure of hearings at the court, and that the court heard two oral arguments via Zoom. He encouraged the board to suggest interns for the court.

EE. Federal Judicial Liaison:

Judge Rodriguez reported that there have not been any civil or criminal trials in the federal court system, with just a couple of rare exceptions. He reported that civil and criminal hearings are continuing remotely and that in-person cases are being considered on a case-by-case basis. Judge Rodriguez reported that criminal case filings have dropped significantly and that grand juries have not met at all these past several months. He reported on two studies that were being conducted on when courts would be going back in to the courtroom, which were conducted by the Federal Bar Association and by ABOTA.

FF. Judicial Section Liaison:

Justice Benavides reported that the judiciary is trying to work through the pandemic while supporting its constituents. She reported that hearings will be conducted remotely in her jurisdiction. There are technology issues where there is no service and that causes problems for people to be able to obtain that services so they can get on the hearings. Justice Benavides reported that the Judicial Section has continued to work with the Texas Center for the Judiciary to make sure judges continue to provide education. She reported that the Judicial Section Annual Meeting will be held virtually in September.

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

HH. Report from the General Counsel: No report.

II. Report from the Legal Counsel: No report.

There being no further business, the meeting was adjourned at 2:43 pm.

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