

**MINUTES
STATE BAR OF TEXAS
BOARD OF DIRECTORS
Special Called Meeting**

Monday, July 19, 2021 – 9:00 a.m.

*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 in a special-called board meeting on July 19, 2021, via Zoom. Chair Santos Vargas called the meeting to order at 9:05 a.m., and Executive Director Trey Apffel called the roll. A quorum of voting Board members was present. Director David Calvillo delivered the invocation, and Director Dwight McDonald led the pledges to the United States and Texas flags.

Present:

Board Members: Benny Agosto, Andy Almanzán, Chad Baruch, Kate Bihm, Rebekah Brooker, David Calvillo, Carlos Cardenas, Luis Cavazos, Jason Charbonnet, Thomas Crosley, Christina Davis, Dr. Maria Hernandez Ferrier, President Sylvia Borunda Firth, Steve Fischer, Lucy Forbes, President-elect Laura Gibson, Immediate Past Chair of the Board Charlie Ginn, August Harris, Immediate Past President Britney Harrison Forrest Huddleston, Michael Hurst, Dwight McDonald, Immediate Past President Larry McDougal, Carra Miller, Lydia Mount, TYLA President Jeanine Rispoli, TYLA President-elect Michael Ritter, Adam Schramek, Audie Sciumbato, Mary Scott, David Sergi, David Smith, Michael Smith, Diane St. Yves, Nitin Sud, Robert Tobey, Andrew Tolchin, Chair of the Board Santos Vargas, Michael Vasquez, and Kimberly Pack Wilson.

Liaisons*: Judge Elisabeth Earle, Rakhi Israni, and Justice Debra Lehrmann.

Section Representatives*: Deborah Cordova, Bob Goss, and Sonya Hoskins.

Excused Absences: Luis Cardenas, Kelly-Ann Clarke, Lori Kern, Bill Kroger, Yolanda Cortés Mares, Kathryn Murphy*, Kimberly Naylor, Judge David Newell*, Jason Smith, Todd Smith Judge Michael Truncale*, and Kennon Wooten.

(denotes nonvoting)*

I. REPORTS:

A. Remarks from the General Public:

The board heard oral comments from three members of the public.

B. Report from the President:

President Sylvia Borunda Firth moved for approval of continued authority for the Ad Hoc Submission Committee and Litigation Subcommittee to make decisions regarding *McDonald et al v. Sorrels et al* and related matters, as needed. Director Yolanda Cortés Mares seconded. Discussion ensued. Motion carried with one nay vote.

C. Report from the Chair of the Board:

Chair Santos Vargas addressed the board on guidelines and expectations for commenting during open session. Chair Santos Vargas called on outside counsel Tom Leatherbury, who summarized the opinion issued by the Fifth Circuit Court of Appeals in the *McDonald et al v. Sorrels et al* case.

D. Report from Legal Counsel:

1) Closed Session: At 9:45 a.m., the State Bar Board of Directors recessed the open meeting and reconvened in closed session as authorized by Texas Government Code Section 551.071 for the purpose of consulting with legal

counsel on pending and contemplated litigation (including regarding *McDonald et al v. Sorrels et al* (No. 20-50448 in the Fifth Circuit Court of Appeals)).

- 2) Open Session: At 11:35 a.m., the open session of the State Bar Board of Directors meeting reconvened. During the closed session, only matters relating to seeking advice of legal counsel on all pending or any contemplated litigation (including regarding *McDonald et al. v. Sorrels et al* (No. 20-50448 in the Fifth Circuit Court of Appeals) were discussed. No action was taken in closed session.
- 3) Action In Open Session: **After consulting with legal counsel and considering the recommendations of the Ad Hoc Submission Committee and Litigation Subcommittee, and after considering the Board's options, Director Mary Scott moved that Vinson & Elkins LLP be directed not to file a petition for rehearing in the Fifth Circuit Court of Appeals and to notify the Fifth Circuit Court of Appeals that a petition for panel rehearing or en banc rehearing would not be filed. Coming from a committee, no second was needed. No discussion; motion carried unanimously.**
- 4) Comments: Executive Director Trey Apffel remarked that he is confident that the SBOT can move forward and continue to achieve its mission and statutory purposes in compliance with the Fifth Circuit panel opinion. President Sylvia Borunda Firth noted that she is pleased that the Fifth Circuit panel upheld the constitutionality of nearly all of the State Bar's programs and activities challenged by the plaintiffs.

E. SBOT Mission Statement: Chair Vargas led the board in reciting the SBOT mission statement.

There being no further business, a motion to adjourn was made by Director Andrew Tolchin and seconded by Director Lucy Forbes. The meeting was adjourned at 11:51 a.m.