

**OFFICIAL MINUTES
STATE BAR OF TEXAS
BOARD OF DIRECTORS MEETING
Gaylord Texan Resort and Convention Center – Yellow Rose Ballroom
Grapevine, Texas
January 25, 2008**

The Board of Directors of the State Bar of Texas met in a regular session on January 25, 2008 at the Gaylord Texan Hotel in Grapevine, Texas. Chair Travis Vanderpool called the meeting to order at 9:00am, and Executive Director John Edwards called the roll. A quorum of voting Board members was present. Chad Baruch introduced Rabbi Howard Wolk, who delivered the invocation. James Higdon reported on the history of the Texas pledge, and pledges were made to the U.S. and Texas flags.

Present:

Board Members: Judge Ernest Aliseda, Glenn A. Ballard, Jr., Cynthia Barela, Immediate Past Chair Robert A. Black, Deborah Bullion, Sylvia Cardona, Theresa W. Chang, Michelle M. Cheng, Guy Choate, Janna Clarke, Karin Crump, Immediate Past President Martha S. Dickie, John D. Ellis, Jr., President-elect Harper Estes, Edward Fernandes, David Fisher, Curtis Flowers, Deborah Gagliardi, Rodolfo Garcia, Lloyd M. Garland, M.D., David O. Gonzalez, Van Hilley, Randy Howry, Rhonda F. Hunter, Lamont Jefferson, Bill Kroger, Rob Kyker, Michael Marin, William W. Miller, Jr., Robert D. Miller, Timothy W. Mountz, J. Goodwille Pierre, Rocky Robinson, Elizabeth Rogers, Mark Sales, Joe Shannon, Jr., N. Henry Simpson III, John Sloan, Michael C. Smith, Randy O. Sorrels, Sandra L. Stewart, Lisa Tatum, G. Allan Van Fleet, Chair Travis Vanderpool, Tom Vick, President Gib Walton, Barbara Young

Liaisons*: Judge Larry Meyers, Judge Brian Quinn, Judge Sam Sparks, R.E. Thompson, Justice Dale Wainwright

Section Representatives*: Pat E. Allison, Chad Baruch, Warren Cole, James N. Higdon, Carolyn F. Moore

Ex Officio*: Executive Director John Edwards, Deputy Executive Director Michelle Hunter, General Counsel Elizabeth Rogers, Chief Disciplinary Counsel John Neal

Excused Absences: Steve Bolden

(* = *nonvoting*)

I. CONSENT AGENDA ITEMS:

1. **Upon motion properly made by J. Goodwille Pierre and seconded by Cindi Barela, the following items on the Consent Agenda were approved:**

- a. Approval of minutes of Board meetings conducted on *September 28, 2007*
- b. Ratification of actions taken at the following Executive Committee meeting:
 - 1) ***November 1, 2007:*** Approved minutes of August 30, 2007 Executive Committee meeting
 - 2) ***January 10, 2008:*** Approved minutes of the November 1, 2007 Executive Committee meeting
- c. Items from the President-Elect:

Approval of appointments to the **Texas Bar Foundation's Board of Trustees:**

1) for three-year terms, effective June 2008 to June 2011:

lawyers:

James M. Alsup (Midland)
Edward F. Fernandes (Austin)
Mark Osborn (El Paso)

public member:

Jennie Malouf Gilchrist (Dallas)

As liasions 2008-2009:

Barbara S. Young (Temple)
Randy Sorrels (Houston)

d. Items from Committees and Sections/Divisions:

1) Approval of request by the Family Law Section to hold its Annual meeting in conjunction with the Marriage Dissolution Seminar in April 2008 [**Exhibit A**]

2) Approval of request by the Workers' Compensation Section to amend its bylaws [**Exhibit B**]

3) Approval of request by the Construction Law Section to amend its bylaws [**Exhibit C**]

4) Approval of request by the Poverty Law Section to hold its Annual meeting in conjunction with the Poverty Law Conference in April 2008 [**Exhibit D**]

e. Other Items:

1) Approval of the 2008-2009 Preliminary Calendar/Holiday Schedule

2) Approval of State Bar Legislative Timetable [**Exhibit E**]

II. REPORTS:

A. Report from the Chair of the Board:

Chair Vanderpool gave a brief bio of the three new public members, Curtis Flowers, Deborah Gagliardi, and Rob Kyker, and Justice Dale Wainwright administered the oath of office. A group of grade students from Northstar School in Arlington were present for the swearing-in.

B. Supreme Court Liaison:

Justice Wainwright reported that there are more than 30,000 children in the foster care system, and the Court has created a Commission on Children, Youth and Families to improve the foster care system, in order to get more information to judges to help courts better serve children in foster care and move them more quickly into permanent homes. The Court has also created a Task Force to Ensure Judicial Readiness in Times of Emergency, to begin design and implementation of an emergency program to prevent or manage disrupted court operations throughout the state in times of emergency. Jan Patterson (Austin) has been appointed to the Commission on Judicial Conduct. The Court has created a Pro Bono Appellate program, to help appellate lawyers have the opportunity to represent pro bono litigants and to have arguments in an appellate court. The Court promulgated a set of rules for Justice of the Peace courts across the state for electronic filing, and they have hired a new General Counsel to replace Lisa Hobbs, who is now working part-time for Vinson & Elkins.

C. Report from the President:

President Walton reported that “Let’s Do Justice for Texas” is going well, 3,447 radio spots have run in the last 30 days, and 685 have run in Spanish. The You Tube contest had ten entries, two of which were in the under age 18 category. Alabama is using our materials to develop a You Tube contest in conjunction with Law Day.

President Walton introduced David Keltner to speak on the CLE policy change. Keltner reported that TBACLE has in the past had speakers at seminars that were candidates for public office. An Ad Hoc Committee of the CLE Committee, along with the staff, has developed a policy to avoid the appearance of endorsement of candidates or parties speaking at CLE seminars. **[Exhibit F]**

President Walton introduced Dick Geiger, chair of the Texas Legal Protection Plan. Geiger made remarks on the current positive state of TLPP and introduced Jim Buck as their new Executive Director, as well as TLPP Board member Jim Winton, who presented a \$50,000 contribution to the Access to Justice Commission for their summer internship programs for legal service law students.

UPL Committee Chair Rodney Gilstrap and James Rader reported on the structure, membership and process of the UPL Committee and the various regional subcommittees. The committee is complaint-driven and does not take any initiative until they receive a complaint, after which it is forwarded to the subcommittee level and assigned an investigator. The majority of complaints the committee sees come from the judiciary, in areas of activity such as immigration practice, divorce deals, and estate planning.

President Walton noted that Jan Miller received the Isidore Starr Award, the highest award for excellence in law-related education. Miller reported on her CIVITAS trip to Costa Rica.

President Walton noted that the Task Force on Insurance Disclosure, chaired by David Beck, was asked by the Supreme Court to study the issue of whether attorneys should be required to disclose to the public if they have malpractice insurance. The task force held their first meeting on December 21, and their next meeting is scheduled for February 1. Several states have looked at the issue and decided that disclosure in any form is not right for them, and about 20 states have some form of disclosure.

President Walton asked third year directors for their help in recruiting qualified attorneys from their districts to run for open positions on the 2008-09 Board. The Annual Meeting Committee has been hard at work planning the Annual Meeting in June in Houston. President Walton also noted that Stewart Morris has now given the entire contribution amount of \$150,000 for the Stewart Morris Board room renovation.

James Higdon spoke on the Military Law Section resolution, noting that the resolution recommends that the Court consider granting dues waivers to military lawyers in combat zones. It also encourages the MCLE Committee to continue granting hardship waivers to attorneys, which they have the authority to do.

President Walton moved for approval of the resolution regarding waiver of dues and MCLE requirements for military attorneys serving in combat zones; Theresa Chang seconded. Motion carried. [Exhibit G]

D. Report from the Immediate Past President:

Immediate Past President Martha Dickie introduced Jeff Hitt, a lawyer with a history of alcohol abuse, who made remarks on his life and how the grievance referral program helped save his career during a difficult time.

Immediate Past President Dickie, co-chair of the Court Administration Task Force, noted that the task force has 60-70 members, which have been divided into three separate groups to look at different issues and to design surveys to go to discreet groups. The task force’s next meeting is scheduled for April 7. It is an ongoing, work in process but they have had good input from Texans for Lawsuit Reform, and hope to have it wrapped up by August.

E. Nominations & Elections Subcommittee:

On behalf of the N&E subcommittee, Bob Black moved for approval of Claude Ducloux (Austin) and Roland Johnson (Fort Worth) as the President-elect candidates for 2008-09; no second needed. Motion carried. [Exhibit H] Rhonda Hunter abstained from voting.

The two candidates were introduced – Claude Ducloux by Randy Howry, and Roland Johnson by Rocky Robinson – and allowed to give remarks.

F. Report from the President-elect:

President-elect Harper Estes described the budget process for the FY 2008-09 proposed budget, and highlighted new items included in the budget this year, such as Harper's Leadership Academy to involve Texas lawyers in bar work, a continuation of the "Let's Do Justice for Texas" initiative, and a SBOT compensation survey. Cheryl Howell reported that the proposed General Fund revenues for FY 08-09 equal \$35,418,450. While revenues are projected to increase by \$346,380 from FY 07-08, expenditures and transfers are projected to increase by \$441,775, which results in a decrease in projected net revenue for FY 08-09 of \$95,395.

On behalf of the Budget Committee, Estes moved for the following:

- (1) Approval of a total minimum operating reserve designation of \$5,903,075 and a total designation of \$7,384,866 for the Texas Law Center fund project; no second needed. Motion carried.**
- (2) Approval of the SBOT FY 2008-09 proposed budget as presented and for publication in the *Texas Bar Journal*; no second needed. Motion carried. [Exhibit I]**

G. Chief Disciplinary Counsel/Commission for Lawyer Discipline:

John Neal reported on behalf of Betty Blackwell, discussing the make-up of the Commission for Lawyer Discipline and the CDC office, and Board member nominations of grievance committee members and the need for diversity of practice. Neal discussed the centralized intake of grievances in Austin, setting up a centralized clerkship for evidentiary matters, and the good work being done with the grievance referral program. **[Exhibit J]**

H. Discipline & Client Attorney Assistance Program Committee:

Bob Miller reported on the proposed changes to Article I and Article III of the State Bar Rules and Proposed Rule 8.03(e) of the TDRPC regarding the definition of "registered address", a requirement that licensed lawyers file an enrollment form with the clerk stating their preferred physical address, and a requirement that lawyers report a finding of guilt or order deferring adjudication for an intentional or serious crime to the CDC office.

On behalf of the DCAAP Committee, Bob Miller moved for approval of the proposed changes to the State Bar Rules and the Texas Disciplinary Rules of Professional Conduct; no second needed. Motion carried. [Exhibit K]

I. Judicial Section Liaison:

Judge Brian Quinn noted that the Court has been active, especially the Judicial Section, and the Judicial Resources Committee is using law schools as a resource for judges. They are looking at developing a program similar to the 5th Circuit Judicial Conference, and they are actively pursuing alternative sources of funds for judicial education with the creation of the Texas Judicial Foundation to help sponsor judicial education.

At this time, outgoing public member Bill Burch was presented with a plaque for his service on the Board.

J. Administration Committee:

Rocky Robinson highlighted the various activities of the Administration subcommittees, including the work of the Advisor Coordination subcommittee, the Employment/Salary/Evaluation subcommittee's development of an anti-nepotism policy, and the Facilities & Equipment subcommittee's revised Trimbuilt bid for remodeling of floors 3-6, capital replacement plan, and preventative maintenance plan. Robinson also discussed the Litigation subcommittee's focus on keeping the State Bar in compliance with Keller, the report and outcomes of the Performance Measures subcommittee, and the current activities of the UPLC subcommittee.

Carolyn Moore reported that the Advisor Coordination subcommittee has sent each Board member customized individual director information for advisors and alternate advisor roles to Sections and Standing Committees, and an email will be sent out with questions about the individualized information and attendance at meetings.

K. Court of Criminal Appeals Liaison:

Judge Larry Meyers reported that the Court has three terms expiring, and they have been occupied with dealing with a number of capital penalty cases that have been in the media lately, and the number of writs being filed with the Court right now. The Court is doing well in preparing for the next legislative session.

L. Audit and Finance Committee:

Chair Bill Kroger and Warren Cole reported on the financials through November 30, 2007, noting that the General Fund had a net excess of revenues over expenditures of \$1,892,451, which is a 135% favorable variance to a budgeted net of \$803,821. Maxwell, Locke & Ritter completed the final audit for FY07 and it resulted in an *unqualified* opinion, also referred to as a "clean" opinion, which is the best audit opinion the Bar can receive. Padgett, Stratemann & Co. LLP conducted the internal audit for FY07 and had "no comments or recommendations as a result of the engagement." Randy Sorrels reported on the \$150,000 referral fee contribution that the State Bar received from the Houston law firm of Abraham, Watkins, Nichols, Sorrels & Friend, and Kroger noted that the recommendation is that a \$150,000 transfer be made from the General Fund to the Client Security Fund for the purpose of increasing the Client Security Fund's current fund balance to approximately \$3.3 million.

On behalf of the Finance Committee, Kroger moved for approval of the following:

- (1) Acceptance of the quarterly investment report for quarters ending August 31, 2007 and November 30, 2007; no second needed. Motion carried.**
- (2) Acceptance of financial audit for FY ending May 31, 2007; no second needed. Motion carried.**
- (3) Acceptance of internal audit for FY ending May 31, 2007; no second needed. Motion carried.**
- (4) Placing \$150,000 lawyer referral fee into CSF Corpus; no second needed. Motion carried. [Exhibit L]**

M. Ad Hoc Committee to Select Minority Directors:

Ed Fernandes noted that the committee has had a declining pool of applicants over the past few years, and efforts to increase the pool this year resulted in 25 applicants. Ten applicants were interviewed, and two outstanding candidates were selected to be submitted to President Walton, who will make his selection by March 1.

N. Member Services & Education:

Appeals/Grants Review subcommittee Chair Rudy Garcia noted that over the past several months, the subcommittee received three requests from Bar departments or Committees for authorization to seek outside funding, and each of the three grant authorization requests were approved because they met all the requirements

under board policy. The subcommittee received an appeal from attorney Jerry Melton for a ruling made by TBLS to place his Family and Criminal Law certifications on active suspension for one year, and after considering the evidence, the subcommittee agreed that the TBLS denial of the appellant's request was justified by substantial evidence.

On behalf of the Appeals/Grant Review subcommittee, Garcia moved for approval of the recommendation to deny the appeal presented by the appellant and uphold the decision of TBLS; no second needed. Motion carried. [Exhibit M]

Technology Oversight subcommittee Chair Goodwille Pierre reported that the desktop computers and network server equipment replacement for CDC offices are underway, and hardware and software consolidation plans have resulted in the elimination of three network servers. Disaster Recovery Planning software was acquired in December, and the subcommittee has plans to complete an updated Technology Plan for approval at the April Board meeting.

Professional Development subcommittee Chair Van Hilley thanked the staff for their work with CLE programs, and noted that we need to continue to work on recruiting good speakers at seminars. Rhonda Hunter reported on the MAP program (Minority Attorney's at the Podium) which is working to recruit more women and minority speakers at CLE programs and advanced courses.

Insurance/Member Benefits Chair Michael Smith reported that the subcommittee is pursuing hotels and cell phones as new non-insurance member benefits, and they are working with the State Bar Insurance Trust to provide direction to staff and to revise their various statistical reports. They are also looking at the issue of whether the Bar should provide professional liability insurance as a member benefit, and if so, have decided that the program would be sponsored by the State Bar, an agreement with USI as broker will be pursued, and any monies received will be dedicated to the Client Security Fund.

O. Chair of the Board Elections:

Chair Vanderpool reported that two second-year directors had submitted their names as candidates for the 2008 Chair of the Board, Deborah Bullion and Joe Shannon, and they were both allowed to give remarks. [Exhibit N]

Travis Vanderpool moved for approval of the Board to vote for Chair of the Board at the April Board of Directors meeting by written ballot; Tom Vick seconded. By a show of hands, the motion carried.

P. Section Representatives to the Board:

Pat Allison reported on Sections, noting that we have 44 Sections and membership is voluntary, and 33,553 attorneys in Texas belong to one or more Sections. Different size Sections have different interests, and some Sections have had considerable growth recently. 24 Sections have co-sponsored one or more CLE events with Texas Bar CLE this year, and numerous Sections provide free CLE to attorneys accepting Pro Bono cases.

Q. Federal Judicial Liaison:

Judge Sam Sparks reported that the Western and Southern districts of Texas vie for the heaviest dockets, and there are two areas of concern; coming under the guise of judicial independence, and the public perception of judges who preside over cases of contribution.

R. Out-of-State Lawyer Liaison:

R.E. Thompson noted that an issue has come up about out-of-state liaisons receiving free CLE, and they are looking at the issue. 10% of the active 80,000 lawyers in Texas live outside the state.

S. TYLA:

Bill Miller highlighted the various projects of TYLA, including the “Safeguarding Our Seniors”, “My First Job”, and “They Had A Dream Too” videos. TYLA has four pamphlets in production now. “Kids in the Crossfire” has been translated into Spanish, and three tapings of Ten Minute Mentor have been scheduled in the next three months. New lawyer DVD’s have been mailed to all newly licensed lawyers. 156 law schools are participating in the National Trial Competition in Austin in March. The two TYLA President-elect nominees for 2008-09 are Cori Harbour (El Paso) and Kristie A. Wright (Texarkana).

T. Report from the Executive Director:

Bennie Ramirez was recognized as Employee of the Quarter.

U. Report from the General Counsel:

Elizabeth Rogers had a written report that was included in the Board packet. **[Exhibit O]**

There being no further business, the meeting was adjourned at 3:17pm.