

**OFFICIAL MINUTES
STATE BAR OF TEXAS
BOARD OF DIRECTORS MEETING
Hilton Americas
Houston, TX
June 25, 2008**

The Board of Directors of the State Bar of Texas met in a regular session on June 25, 2008 at the Hilton Americas. Chair of the Board Travis Vanderpool called the meeting to order at 1:30 p.m., and Executive Director John Edwards called the roll. A quorum of voting Board members was present. David Fisher delivered the invocation. Jim Higdon led the pledge to the U.S. and Texas flags.

Present:

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

Liaisons*: Judge Lawrence E. Meyers, Judge Brian Quinn, Judge Sam Sparks, R.E. Thompson

Section Representatives*: Chad Baruch, Steve Bolden, James Higdon, Carolyn Moore

Excused Absences: Pat Allison*, Warren Cole*, Curtis Flowers, Deborah Gagliardi, Randy Howry, Tim Mountz, Rocky Robinson, Justice Dale Wainwright*

(* = nonvoting)

I. REPORT FROM THE CHAIR OF THE BOARD:

A. **Upon motion properly made by Henry Simpson and seconded by Debbie Bullion, the following actions were taken regarding the Consent Agenda items:**

C1. APPROVAL OF MINUTES:

Approval of minutes of Board meetings conducted on *April 25, 2008*

C2. ITEMS FROM THE 2008-2009 PRESIDENT:

Approval of appointments to the following entities:

a. **College of the State Bar Board**, for three year terms effective June 1, 2008 through May 31, 2011:

Darrell L. Barger (Corpus Christi)
Robert H. Dawson (Midland)
Tamara L. Kurtz (Austin)

Leta S. Parks (Houston)
Herman H. Segovia (San Antonio)
Timothy M. Sulak (Austin)

b. **Section Representative to the Board Committee**, for three-year terms effective Annual Meeting 2008 through Annual Meeting 2011:

John V. Jansonius (Large-sized Section, Dallas)
Daniel Micciche (Large-sized Section, Dallas)

For unexpired term effective Annual Meeting 2008 through Annual Meeting 2009:

Cheryl L. Wilson (Large-sized Section, San Antonio)

- c. **State Bar Insurance Trust**, for terms effective July 1, 2008 through June 30, 2011:

Guy Harrison (Longview)
Gregory L. Longino (Lufkin)

- d. **Texas Access to Justice Commission**, for three-year terms effective June 2008 through June 2011:

Jeanne C. “Cezy” Collins (El Paso, SBOT Board Repr.)
Jeffrey Scott Edwards (Austin, TYLA/At Large Repr.)

- e. **Texas Access to Justice Foundation (IOLTA)**, for three-year terms effective September 1, 2008 through August 31, 2011:

Hon. Pete Gallego (Alpine)
Tom Godbold (Houston)

- f. **Texas Board of Legal Specialization**, for three-year terms effective July 1, 2008 through June 30, 2011:

Steven C. Kiser (Midland)
Judith W. Lenox (Houston)
Roberto L. Ramirez (McAllen)
Ruben Robles (El Paso)

One year term effective July 1, 2008 through June 30, 2009

Chair - Olan J. Boudreaux (Houston)

- g. **Texas Center for Legal Ethics and Professionalism**, for three year terms effective June 1, 2008 through May 31, 2011:

Alton J. Hall, Jr. (Houston)
Javan Johnson, Public Member (Longview)
Benigno (Trey) Martinez (Brownsville)

- h. **Texas Legal Protection Plan**, for unexpired term effective June 25, 2008 through August 31, 2009:

Kristi F. Hyatt (Midland)

- i. Approval of State Bar Standing Committee Chair and Vice Chair

David Dickson (Waco), Chair, Professionalism Committee
Barbara Hannon (Austin), Vice Chair, Professionalism Committee

C3. ITEMS FROM COMMITTEES AND SECTIONS/DIVISIONS:

- a. Approval of request by the State Bar Paralegal Division to amend its bylaws **[Exhibit A]**

- b. Approval of request by the State Bar Corporate Counsel Section to increase its annual dues from \$20.00 to \$25.00 **[Exhibit B]**

C4. OTHER ITEMS:

- a. **Nominating Committee to Select ABA Delegates** (*Chair Martha Dickie*)

Approval of appointment of delegates to the American Bar Association House of Delegates for two-year terms beginning at the conclusion of the 2008 ABA Annual Meeting and expiring at the conclusion of the 2010 ABA Annual Meeting:

Delegates:

Gib Walton (Houston)

Lora Livingston (Austin)

Roland K. Johnson (Fort Worth)

Jennifer Rymell (Fort Worth)

Alternates:

Robert L. Collins (South Padre Island)

Approval of appointment of delegate to the American Bar Association House of Delegates to fill the unexpired term of Martha Dickie beginning at the conclusion of the 2008 ABA Annual Meeting and expiring at the conclusion of the 2009 ABA Annual Meeting :

Kelly Frels (Houston)

- b. Approval of recipients for the Community Leadership Award to be presented at the Annual Meeting

- 1) **Tom Green County Bar Association**
- 2) **State Bar of Texas Family Law Section**

B. **Outstanding Third-Year Director:** Chair Vanderpool noted that it was a great privilege to serve on the Board and as chair this year, and announced that Michael Smith and Rocky Robinson are the recipients of the Outstanding Third-Year Director Award. Rocky Robinson was not present at the Board meeting. Michael Smith made remarks.

II. **REPORT FROM THE PRESIDENT:** President Walton introduced Peter Shoemaker from Crane MetaMarketing to discuss the new concept of "Let's Do Justice for Texas" involving artist Jason Pollen and educational videos about jury service, electing judges, and separation of powers. The radio spots have been a success, reaching almost 40 million listeners.

Martha Dickie reported on the Court Administration Task Force, noting that they had six full committee meetings, and the chairs of the three subcommittees, Dickie Hile, Tom Cunningham and Carl Reynolds, have worked very hard studying the issue. The topics discussed ranged from concepts at the beginning and end of SB104, arbitration, and the selection of presiding regional judges. The task force will work to have a report presented to the Board at the October Board meeting.

Tom Vick and Guy Choate reported on the situation in San Angelo, noting that they are working with Betti Balli Torres and TAJF to reimburse some of the expenses of lawyers for their work on the Eldorado case. The Bar Foundation donated \$50,000, but more money is needed, and donations can be sent to TAJF. Choate noted that litigation continues and the grand jury is meeting, and he was very impressed with the State Bar's involvement and the lawyers in Texas who volunteered.

President Walton noted that he, Tim Mountz, and Ray Cantu met with AT&T in St. Louis to discuss the placement of the "Attorney Referral Services" headings in the Yellow Pages Directory, and AT&T did

respond to Walton's letter that was sent in April. The remainder of the report will be made the following day since Tim Mountz was unable to attend this meeting.

A. **Closed Session:** At 2:19p.m., Chair Vanderpool announced that the Board of Directors would meet in closed session as authorized by Texas Government Code, Section 551.074 for the purpose of discussing the evaluation, duties and compensation of the Executive Director and General Counsel.

B. **Open Session:** Upon return to open session at 2:31p.m., Chair Vanderpool announced that only matters relating to compensation of the Executive Director and General Counsel were discussed. No action was taken in closed session.

In open session, President Walton moved for approval of:

1) Annual compensation for Executive Director John Edwards be set for the next bar year at \$188,640 effective June 1, 2008; Rob Kyker seconded. Motion carried.

2) Annual compensation for General Counsel Elizabeth Rogers be set for the next bar year at \$135,204 effective June 1, 2008; Sandy Stewart seconded. Motion carried.

President Gib Walton introduced David Beck as chair of the Insurance Disclosure Task Force, and Beck thanked Walton for appointing such a diverse task force. Beck gave background information on the ABA model rule of insurance disclosure, which requires lawyers to disclose whether they maintain professional liability insurance coverage, and noted that the Supreme Court asked the State Bar to study the issue from a Texas perspective. The task force looked at various states, and Beck reported that approximately 24 states have adopted some form of professional liability insurance disclosure, four states are considering those rules, two states have declined to adopt a rule, and one state (Oregon) requires that lawyers carry insurance. In an effort to obtain feedback on this issue, the task force conducted three surveys – an e-mail and phone survey of Texas lawyers, and a phone survey of the public. The results indicated that the majority of attorneys are against mandatory disclosure, and the majority of the public are in favor of insurance disclosure for attorneys and other professionals. Principal arguments against disclosure were that there's no evidence of a problem, disclosure could be misleading, malpractice lawsuits may increase, and other professions do not disclose. Some of the reasons given by those in favor of disclosure were that the absence of insurance may be a material fact, disclosure enhances informed consumer decisions, disclosure protects the public, and the burden of asking whether an attorney has malpractice insurance should not be on the client. By a vote of 6-5, the task force recommended that no insurance disclosure should be required of Texas lawyers, as outlined in their report.

After much discussion about whether or not the task force's recommendation that there be no disclosure will be considered a statement of the State Bar, **an amendment to the motion was made by Allan Van Fleet and seconded by Debbie Bullion to replace the word "accept" with "forward"; motion carried.**

President Walton moved for approval to thank the Task Force on Insurance Disclosure for their work, and to forward the report to the Supreme Court of Texas; Henry Simpson seconded. Motion carried with amendment. [Exhibit C]

III. **REPORT FROM THE PRESIDENT-ELECT:** President-elect Harper Estes noted that "Let's Do Justice for Texas" will win a national award at the ABA convention for education and community outreach. Estes noted that an Executive Director Selection Committee has been named, with Mark Osborn as chair. Estes noted that he would like to see the committee look to promote from within first, and then consider doing a statewide search if deemed necessary.

Estes moved for approval of the appointment of the Executive Director Selection Committee; Dr. Lloyd Garland seconded. Motion carried. [Exhibit D]

IV. REPORT FROM THE IMMEDIATE PAST PRESIDENT: Immediate Past President Martha Dickie reported on the agreements with TAJF, TBLS and the State Bar College, noting that they are patterned after earlier agreements.

Dickie moved for approval of the proposed agreements between SBOT and TAJF, TBLS and the State Bar College; Tom Vick seconded. Motion carried. [Exhibit E, F, G]

V. REPORTS:

A. Commission for Lawyer Discipline/CDC: Betty Blackwell noted that it has been a busy year for the Commission. Blackwell reported on the Grievance Symposium in October, and the centralization of grievance intake where all grievances will go through the Austin office and be reviewed by attorneys. A grievance referral program was created to help lawyers with substance abuse and mental health issues that have minor misconduct cases, and the program has had 33 successful completions this year and 56 cases referred. John Neal has put a focus on getting interim suspensions because of the delay between conviction and the lawyer being disbarred, and of the 11 interim suspensions sought last year, 8 were obtained and 3 attorneys resigned in lieu of discipline. The most common rule violations are neglect and communication, particularly in the areas of criminal, family, and personal injury law. Nancy Ashcraft has been named compliance monitor to collect money from attorneys. **[Exhibit H]**

B. Texas Young Lawyers Association: TYLA President Bill Miller highlighted the various projects of the year including three video projects produced for educating citizens and students about the law; "Justice 101: The Client's Guide to Litigation", "Safeguarding our Seniors: Recognizing and Reporting Elder Abuse", and "You're Hired! Now What? Knowing Your Legal Rights on Your First Job." The TYLA website had 11,505,534 hits during 2007-08, with 516,444 printed materials downloaded, 289,786 unique visitors, and 39,923 total online videos shown, and the TYLA e-news bulletin was delivered to 21,000 young lawyers each month. TYLA has produced seven new legal pamphlets, and Miller noted that the future of TYLA is in good hands with incoming TYLA President Sylvia Cardona and President-elect Cori Harbour.

C. Administration Committee: Randy Sorrels reported on the Advisor Coordination, Contracts, and Employment/Salary/Evaluation subcommittees, noting that the subcommittee approved Public Sector Personnel Consultants as consultants for the compensation study. Sorrels also gave a building update, noting that the second floor remodel had a change in the scope of work in that the estimates almost doubled. The Performance Measures subcommittee will be working on the Performance Measure report to the Supreme Court.

On behalf of the committee, Sorrels moved for approval of the following:

1) Consultant recommendation for the SBOT compensation study starting in early July and to be completed by October; no second needed. Motion carried.

2) Recommendation that the Board delegate to the Administration Committee and if timing allows, subject to approval by the Executive Committee, to go forward and solicit firm bids for the remodeling of the second floor and authorize funding for remodeling of the second floor; no second needed. Motion carried. [Exhibit I]

D. Audit and Finance Committee: Chair Bill Kroger thanked Cheryl Howell for her work with the committee, and reported on financials through April 30, 2008, noting that we have a \$3 million budget excess over expenditures, and TexasBarCLE has a net favorable variance of \$164,149. Kroger noted to the new directors that the State Bar has tightened the auditing and budgeting standards and have run surpluses every quarter, and is in very good financial condition. **[Exhibit J]**

E. Policy Manual Subcommittee: Chair John Ellis noted that policy manual Section 1.14 concerning Board Committee descriptions will be deferred, and Section 3.12.03 concerning meeting rooms is being presented for action.

On behalf of the committee, Ellis moved for approval of the revision to Policy Manual Section 3.12.03 concerning meeting rooms in the Texas Law Center; no second needed. Motion carried. [Exhibit K]

F. Member Services and Education: Michael Smith reported that the New Directors Orientation went off well in Austin, which including attending the Supreme Court Historical Society dinner and taking a “Bat Cruise” on Lady Bird Lake. The financial performance from CLE continues strong with a record revenue of almost \$3.2 million in net. The graphic redesign of the Texasbar.com website is well underway, with the website staff working with the company nFusion to analyze and develop an improved look and feel and new navigation for the site. Staff has also begun the process of migrating to the new electronic mail system. Smith noted that staff assisted the State Bar Insurance Trust with a trend report which showed that overall enrollee numbers may be bottoming out, the trust’s biggest selling point is their expertise working with small firm lawyers, and a subcommittee member will attend each Board meeting of the Trust. Member Benefits reminder cards have been distributed.

G. Section Representatives to the Board: The Section Representatives submitted a written report. **[Exhibit L]**

H. Liaison Reports: Judge Larry Meyers reported that the Texas Court of Criminal Appeals is finishing up its fiscal year, and is currently in the process of hiring a new General Counsel and starting a new integrity unit. Federal Judiciary liaison Judge Sam Sparks noted that the Western and Southern federal districts vie for the heaviest dockets in the country, and that the Eastern district has mostly litigation and intellectual property cases. Judicial Section liaison Hon. Brian Quinn reported that the Judicial Section has the Judicial Foundation up and running and Dr. Garland has been appointed to the Board. The Court is working on judicial priorities for the upcoming legislative year, and law schools are helping the Judicial Section and the Texas Center for the Judiciary update their “bench books”. Out-of-state lawyer liaison R.E. Thompson complimented the State Bar on how the media coverage was handled in San Angelo.

I. Executive Director: John Edwards introduced Elma Garcia as the new director of Texas Lawyers Care, discussed the merit award winners for 2007-08 and made remarks on the success of the State Bar election this year.

J. General Counsel: Elizabeth Rogers submitted a written report. **[Exhibit M]**

There being no further business, the meeting was adjourned at 4:23pm.