

**MEETING OF THE
BOARD OF GOVERNORS
OF THE
STATE BAR OF ARIZONA
February 26, 2021
Phoenix, AZ**

BOARD MEMBERS PRESENT: Denis M. Fitzgibbons, President, Casa Grande; President-Elect; Jennifer Rebholz, Phoenix; Jessica Sanchez, Vice President, Mesa; Benjamin Taylor, Secretary-Treasurer, Phoenix; Sandra Bensley, Tucson; Jena Decker-Xu, Young Lawyers Division; Hector Figueroa, Payson; Sharon Flack, Prescott; Kelsi Lane, Phoenix; Leticia Marquez, Tucson; Robert McWhirter, Phoenix; John Moody, Phoenix; David Rosenbaum, Phoenix; Eric Ruckensky, Flagstaff; D. Christopher Russell, Sierra Vista; Ted Schmidt, Tucson; Jimmie Dee Smith, Yuma; Public Members: Robyn M. Austin, Tucson; John Gordon, Prescott; Anna C. Thomasson, Paradise Valley; At-Large Members David K. Byers, Phoenix; Lori Higuera, Phoenix; and Doreen McPaul, Window Rock; Dean Marc Miller, UA Law School, Tucson; Dean Douglas Sylvester, ASU Law School, Tempe.

EXCUSED ABSENCES: Jonathan Martone, Paradise Valley; Samuel Saks, Phoenix.

OTHERS PRESENT: Deanna Commack, Executive Assistant; Sarah Corpening, Membership Administrator & Services Manager; Lisa Deane, Chief Member Services Officer; Tim Eigo, Editor; Joe Hengemuehler, Chief Communications Officer; Joel England, CEO/Executive Director; Kathy Gerhart, Chief Financial Officer; Lori Maxwell, Chief Information Officer; Rick Palmatier, Assistant General Counsel; Lisa Panahi, General Counsel; Amy Rehm, Deputy Chief Bar Counsel; Carrie Sherman, Director of Board Operations; Roberta Tepper, Lawyer Assistance Programs Director; Karen Van Allen, Administrative Assistant; Maret Vessella, Chief Bar Counsel; Rachel Williams, Human Resources Manager; Supreme Court Liaison Hon. J. Beene, Phoenix; Assistant Dean Victoria Ames on behalf of Douglas Sylvester, Phoenix; Assistant Dean Leah Won on behalf of Dean Marc Miller, Tucson.

Guests: Member Jessica Van Ranken

President Denis Fitzgibbons called the virtual Board Meeting to order at 8:30 a.m.

Call to the Public – President Denis Fitzgibbons

President Fitzgibbons made a Call to the Public and hearing nothing, moved on to the next item on the agenda.

President's Report – Denis Fitzgibbons

- Attended the virtual National Conference of Bar Presidents (NCBP) on February 3 and 4.
- The State Bar 2021 Convention will be one week earlier than previously scheduled – June 16 – 18.
 - In-person events on Tuesday, June 15 only: annual awards luncheon, then the Board meeting, followed by the President's Reception (invitation only).
 - Jarrett Adams will be the keynote speaker.

- Staff is determining which vendor to hire for the Convention virtual platform.
- Along with Jennifer Rebholz, met with Justice Beene who seeks ways to connect with the Board and be an asset to Board work. Justice Beene will be reaching out to Board members individually.
- John Moody has been appointed to replace Mark Harrison on the Discipline System Oversight Committee.
- Jennifer Rebholz has agreed to chair the Awards Working Group.
 - Discussion about several awards being given to multiple recipients in the same category last year
 - Agreement that one winner will be named per award and two recipients will be an exception

CEO's Report – Joel England

- Also attended the NCBP virtual convention.
- The staff is closing out annual reviews today.
- Finance & Investment Sub-committee: Along with Kathy Gerhart, met with Vanguard and are in the process of setting up investment accounts; Sub-committee will be meeting with an investment professional from Vanguard in the near future.
- ABA House of Delegates Midyear Meeting: Lisa Panahi is prescreening HOD resolutions with regard to *Keller*; meeting scheduled with Bar's five delegates for discussion on voting instructions to ensure compliance with *Keller*.
- Hotline: Approximately 3,000 calls have been received
 - About 800 have been referred to an attorney for a free consultation
 - About 50% of referrals are related to housing
- Board Advisor: Hon. Brian Furuya is unable to complete his term as Board Advisor. Jeff Willis has agreed to return and replace Judge Furuya for the Nominating Committee process.
- Find-A-Lawyer:
 - Negotiations continue with LSL; working on a transition agreement.
 - Program Review Committee, with Communications involvement, will deliver a report by the end of summer that reviews the FAL performance.
- Wellness: Participating in the 8,000 steps/day challenge along with staff members

Special Presentation – Denis Fitzgibbons

- Introduced Jessica Van Ranken who received the highest score on the October 2020 Remote UBE. Her bio is included in the Board materials for the meeting.
 - This was the first-ever, 100% remote exam.
 - A memento recognizing her accomplishment had been shipped to her.
 - Ms. Van Ranken thanked the Board for honoring her.

History of Insurrections and Pardons – Bob McWhirter

10-Minute Talk – Bob McWhirter would like his Board presentations to be named “10-Minute Mark Harrison Memorial Lectures” in honor of the former Board member.

ASU College of Law Update – Dean Doug Sylvester

- CEO England
 - Introduced the topic - how we are preparing future lawyers
 - Effort to continue to facilitate relationship between Bar and law schools
 - Dean Marc Miller will present an update at the April Board Meeting.
- Dean Sylvester, Arizona State University's Sandra Day O'Connor College of Law
 - The school is doing well although it has been a year of challenges.
 - They would like more opportunities to network and socialize with the State Bar of Arizona; the students are desperate to meet lawyers.
 - There are both online and in-person students (the student makes the choice).
 - There have been no reported deaths due to COVID; all staff are vaccinated.
 - 70% of students are from out of state, and socializing is a need.
 - The school is growing and set a record for the number of applications.
 - A diverse offering of programs: Indian Legal program; Legal Methods and Writing program; Diversity and Social Justice program; ASU Law D.C.
 - They are adding faculty that are experts in their field.
 - There is a new program funded by a donation: An advanced scholar program for anyone that has overcome adversity; and the next project will be unemployment and access (those that do not have Internet). They are developing an app that lawyers will review. The goal is to find inequality in all forms and change it.
 - The Master of Legal Studies program can prepare candidates for the new Legal Paraprofessionals.

Proposed Member Survey - Joe Hengemuehler

- Received a request to disseminate an outside survey to gain information from members about COVID and the use of technology (video conferencing) during the pandemic; the requestor agrees to write an article for *Arizona Attorney Magazine* based on the results of the survey.
- The Bar would get access to the results if permission is granted.
- Joe Hengemuehler has reviewed the survey; questions about court hearings and jury selection in a virtual environment are addressed.
- **MOTION:** Jennifer Rebholz moved, Sharon Flack seconded and the motion carried by a vote of 20-2 to approve the member survey as presented.

Update on Court's Delivery of Legal Services Initiatives – David Byers

- It is Bar Exam Week; approximately 250 people are taking the test remotely. Have to make a decision soon whether the July Exam will also be virtual or return to an in-person event.
- Three areas to report:
 - Supreme Court
 - Domestic Violence: Lay advocates (program developed by UA) can now appear in court; assist with Orders of Protection, etc.; program was delayed due to the pandemic; shelter in Pima County the beneficiary

- Bar Foundation: oversees DV lay advocates in 14 counties
- Alternative Business Structure (ABS) where a non-lawyer can partner with a law firm; they have received four applications to date that will go to the ABS Committee on March 9th for review with Court expected to take action on March 11th.
- A Limited License Legal Provider (LLLLP) is now a Legal Paraprofessional (LP).
 - The test to qualify an LP is almost complete.
 - People have to complete education requirements before applying.
 - Court is working with universities on updating curriculums for Arizona's paralegal programs. The Master of Laws at ASU is perfect for LPs.
- Rule Petition: Authorizes LPs to appear at the bail hearings; it addresses racial inequality because often there is no public defender present.
- Interest in having Will Knight, others, to appear at a future Board meeting to speak on work of the Minority Commission and a program to train volunteer attorneys on related issues.
- Pending retirement:
 - Judge William J. O'Neil, Presiding Disciplinary Judge
 - Interviewing four finalist candidates to replace him

Finance & Audit Committee – Benjamin Taylor and Kathy Gerhart

- Total of \$5,655K in cash reserves balance as of January 31, 2021
 - Capital Reserve has \$2,064K
 - Dues Reserve has \$3,591K
 - Recommendation is to allocate \$888,267 of 2020 surplus to Fees Reserve (less audit fee)
 - Recommendation is to allocate \$606,354 of 2020 surplus to Capital Reserve
 - The funds, per the Policy, cannot be used for other things but it might be possible to create a new reserve category for such purposes.
- **MOTION:** David Byers moved, Jennifer Rebholz seconded and the motion carried unanimously to approve the reallocation of Capital and Annual Fees Reserve balance as presented.

Consent Agenda – Denis Fitzgibbons

- Hearing no request to have any items removed from the Consent Agenda:
- **MOTION:** Jessica Sanchez moved, David Rosenbaum seconded and the motion to approve the Consent Agenda carried unanimously.
 - a) Approval of January 22, 2021 Board Meeting Minutes
 - b) Approval of Resignations in Good Standing
 - c) Approval of Resignations in Lieu of Reinstatement
 - d) Approval of Reinstatements of Members Suspended for Non-Compliance with MCLE Requirements (Rule 45, Ariz. R. Sup. Ct.)
 - e) Approval of Reinstatements of Members Suspended for Non-Compliance with Annual Membership Fees and/or Trust Account Compliance (Rule 32(c)(10) and/or Rule 43, Ariz. R. Sup. Ct.)

- f) Approval of Suspensions for Non-Compliance with MCLE Requirements (Rule 45, Ariz. R. Sup. Ct.)
- g) Approval of Suspension for Failure to Complete the Professionalism Course
- h) Fee Waiver Denials

Legislative Update – Joe Hengemuehler

- House Update:
 - Rep. Judy Burges (District 1) was admitted to the hospital after being struck by a car last week but has been zooming in to floor sessions from her hospital bed.
 - Rep. Frank Pratt was also involved in an accident last week when he was struck by a car. Pratt is sporting a sling.
- SB 1230:
 - Passed the Senate unanimously and just last night was assigned to the House Commerce Committee.
 - This is the limited liability companies bill sponsored by Senator Tyler Pace to clean up language regarding the major overhaul of the LLC Act passed in 2017. [Carry over from last legislative session].
- Spendthrift issue is being tabled until next legislative session. (David Case presented background to BOG recently).
- Bar staff and lobbyist keeping an eye on HB2579. It deals with allowing a person licensed to collect debts to be assigned a monetary judgment by a prevailing party in a civil case or small claims case before a justice court.

Social Justice, Bias and Inclusion – Joel England

- A Working Group has been appointed:
 - Lonnie Williams – Chair
 - Suzanne Diaz
 - Lori Higuera
 - Robert McWhirter
 - Nathan Prince
 - Jessica Sanchez
 - Ted Schmidt
- The first meeting scheduled for March; agenda – prioritize the task forces’ Board-approved recommendations.

Strategic Planning Working Group – Jessica Sanchez

- A substantive report will be given at the April Board meeting.
- The State Bar staff is working on ways to track the progress of items in the Strategic Plan.

Adjourn: Robert McWhirter moved, Hector Figueroa seconded and the motion to adjourn at 10:36 a.m. passed unanimously.

Executive Session 10:37 a.m. – 10:48 a.m.: Board Members met in a private Breakout Room to discuss the CEO's 2021 performance goals.

Respectfully submitted,

Benjamin P. Taylor
Secretary/Treasurer