

**MEETING OF THE
BOARD OF GOVERNORS
OF THE
STATE BAR OF ARIZONA
Jacaranda Room/Zoom
December 10, 2021
Phoenix, AZ**

BOARD MEMBERS PRESENT: Jennifer Rebholz, President, Phoenix; Jessica Sanchez, President-Elect, Mesa; Sandra Bensley, Tucson; Robert McWhirter, Phoenix; John Moody, Phoenix; and Board Advisor Denis Fitzgibbons

BOARD MEMBERS ON ZOOM: Benjamin Taylor, Vice President, Phoenix; Ted Schmidt, Secretary-Treasurer, Tucson; Diandra Benally, Fountain Hills; Sharon Flack, Prescott; Kelsi Lane, Phoenix; Leticia Marquez, Tucson; David Rosenbaum, Phoenix; D. Christopher Russell, Sierra Vista; Samuel Saks, Tempe; Gaya Shanmuganatha, Young Lawyers Division President, Phoenix; Jimmie Dee Smith, Yuma; Public Members: Robyn Austin, Tucson; Mignonne Hollis, Sierra Vista; Jonathan Martone, Paradise Valley; and Anna Thomasson, Paradise Valley; At-Large Members: Marcus Reinkensmeyer, Phoenix; Doreen McPaul, Window Rock; and Dean Marc Miller, Tucson

EXCUSED ABSENCES: Hector Figueroa, Payson; At-Large Member Lori Higuera, Phoenix; Eric Ruchensky, Flagstaff

STAFF/OTHERS PRESENT/ON ZOOM: Deanna Commack, Executive Assistant; Tim Eigo, Editor, *Arizona Attorney Magazine*; Joel England, CEO/Executive Director; Kathy Gerhart, Chief Financial Officer; Jessica Iennarella, Controller; Katherine Jendrisak, Program Coordinator – Conservatorships; Alex Marlar, Marketing Manager; Lori Maxwell, Chief Information Officer; Karen Oschmann, Client Protection Fund Administrator; Rick Palmatier, Deputy General Counsel; Lisa Panahi, General Counsel; Amy Rehm, Deputy Chief Bar Counsel; Patricia Seguin, Legal Services Manager; Carrie Sherman, Director of Board Operations; Roberta Tepper, Chief Member Services Officer; Karen Van Allen, Administrative Assistant; Maret Vessella, Chief Bar Counsel; Rachel Williams, Human Resources Manager; Leah Won, UA Law School, Tucson; and Victoria Ames on behalf of the Interim Deans of the ASU Law School, Phoenix

GUESTS ON ZOOM: John Ager, Vanessa Banks, Nancy Carlisle, Renee Coury, Sandra Etherton, Michael Farrell, Danielle Latimore, Kate Mahady, Barbara Phelps, John Phelps, Paul Phelps, Hon. Jay M. Polk, Robert Schmitt, Michael Simes

President Jennifer Rebholz called the hybrid Board meeting to order at 8:37 a.m.

Call to the Public – Jennifer Rebholz

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

President's Report – Jennifer Rebholz

- Made a presentation to Paul Phelps, the recipient of the highest score on Arizona's July 2021 Uniform Bar Exam. Mr. Phelps made brief comments via Zoom having received his memento from the Board earlier in the week.
 - Attended:

- Arizona Judicial Council: Retreat in Flagstaff on October 21, 2021. Topics discussed were mental health issues, opportunities to collaborate with the court, and jury pools. The December 9, 2021 meeting was held in Phoenix. Topics discussed were the question of what will stay virtual and participation at hearings. The court is looking at how to transition out of the pandemic.
- New Member Orientation on October 27-28, 2021
- Hon. Brian Furuya's Investiture on October 29, 2021 in Flagstaff
- Bar Foundation meeting on December 9, 2021; an award was given for the hotline.
- Thank you to Anna Thomasson for opening her home and hosting the Board's holiday reception last night.

CEO's Report – Joel England

- Recognized Employees of the 3rd and 4th Quarters
 - 3rd Qtr.: Katherine Jendrisak, Conservatorship Coordinator. Katherine Jendrisak took over the position in January and since that time, she has:
 - Catalogued 80+ wills from a deceased attorney;
 - Inventoried, made client notifications, and produced 140 archived boxes; and
 - Oversaw and protected over \$56K in client funds
 - 4th Qtr.: Alexandria Marlar, Marketing Manager
 - Created a demographic report (first of its kind) of the Board of Governors and the active members for the State Bar website
- Sections Leadership Orientation, led by Roberta Tepper, was held on October 19, 2021.
- New Member Orientation, two 90-minute sessions held on October 27 and 28; Justice William Montgomery participated in session #1.
- Attended Hon. Brian Furuya's Investiture in Flagstaff.
- The staff holiday party was held on December 3, 2021 outside in the parking lot and was followed by a Town Hall meeting and activity.
- Managers/supervisors (approximately 25 members) attended training on how to lead in a hybrid environment.
- Highlighted Rachel Williams, HR Manager, for her selection as a speaker at the AZ Society for Association Executives' Annual Leadership Forum.
- The American Bar Association (ABA) sent an invitation to be part of a working group that addresses the measurement of outcomes for bar associations. Group will look at what associations do and how to set standards and track progress: . Elena Nethers, Director of Diversity, Equity, and Inclusion, and CEO will participate..

Strategic Planning – Joel England

Introduced Danielle Latimore from Cascade, a software platform that is used to track progress on our strategic plan. Ms. Latimore demonstrated how data is captured, how to drill down for action items, specific due dates and owners, quarterly reports, and viewing the dashboard.

Approximately 20 staff members have “ownership” of the data for which they are responsible and are tasked with keeping updated.

Mark Harrison Memorial 10-Minute Topics – Robert McWhirter

The Constitution’s Pro-Slavery Clauses and Black Self-Determination

Client Protection Fund (CPF) 2020 Annual Report – Robert Schmitt and Sandra Etherton

- CPF Board Chair Robert Schmitt explained for the benefit of new members that Rule 32 established the CPF in the early 1960s; it is a separate entity from the State Bar of Arizona; protects the public from dishonest lawyers (when they lose either money or property); there are five Trustees that meet quarterly; terms are for five years, and they can be reappointed once.
- CPF Administrator Karen Oschmann does an excellent job of investigating each claim.
- Highlighted information in the 2020 CPF Annual Report:
 - Claims filed in 2020 were fewer than claims filed in 2019, and the amount of money paid out is also lower in 2020 over 2019.
 - The 2020 Fund balance is higher at the end of 2020 than it was in 2019.

Appointments to Arizona Foundation for Legal Services & Education’s Board of Directors (Foundation) – Jennifer Rebholz

- President Rebholz provided an overview of the Foundation’s mission and the work of its Board of Directors.
- There are two openings – replacing Ms. Rebholz and Doreen McPaul. The new appointees will serve three-year terms.
- Ted Schmidt and Denis Fitzgibbons indicated their interest in being appointed. SaJm Saks had also indicated that he would be willing to serve again, having served several years ago, but encouraged the appointment of new members and voluntarily withdrew from consideration.
- **MOTION:** Bob McWhirter moved, Chris Russell seconded and the motion carried unanimously to appoint Ted Schmidt and Denis Fitzgibbons to the Foundation’s Board of Directors.

Finance and Audit Committee – David Rosenbaum and Kathy Gerhart

- The Final Draft of the 2022 Budget was presented by David Rosenbaum.
 - The currently projected surplus may shrink as things return to normal; it is not permanent.
 - The budget has been to the Finance and Audit Committee twice and has also been presented to the Executive Council (EC), and meets the technical requirements as outlined by the Budget Guidelines for 2022.
 - Caveat is the ability to provide hybrid CLE meetings
 - Benefits and raises have been approved by the HR Subcommittee
 - No projections for Paraprofessionals revenue is included

- Response to inquiries:
 - \$99K increased cost for the Office of the Presiding Disciplinary Judge is primarily due to additional personnel and accrued vacation costs.
 - \$392K IT Capital budget primarily relates to network upgrades required, accounting software platform replacement, and call management system refresh.

MOTION: Denis Fitzgibbons moved, Jessica Sanchez seconded and the motion to approve the 2022 SBA Budget and Capital Budget passed unanimously.

- Reviewed the Q3 2021 Dashboard:
- Recommendation to add a third category to the reserve policy will be presented in January for the Board’s consideration/vote. Goal is to have the revised reserve policy in place to utilize for allocation of the projected 2021 \$1.7m surplus.
- The Accounting Team and entire staff were thanked for their tremendous work on the budget.

Break: 10:18 – 10:36 a.m.

Awards Working Group – Benjamin Taylor

- Proposal to create a new Excellence in Mentorship Award to honor Mark Harrison this was previously discussed by the Board.
 - Mentoring represents one of the things that Mark Harrison stood for.
 - Mr. Harrison’s daughters were consulted on the creation of this award.
 - It is not limited to lawyers but any legal professional.

MOTION: Jessica Sanchez moved, Denis Fitzgibbons seconded and the motion carried unanimously to approve the creation of the Mark I. Harrison Excellence in Mentorship Award.

Consent Agenda – Jennifer Rebholz

- Hearing no request to have any items removed from the Consent Agenda:
 - a) Approval of October 15, 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 Reinstatement of Member(s) 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) Proposed Petition to Amend Rule 17, Ariz. R. Civ. P. and Add New Rule 17.1
 - g) Proposed Petition to Amend Rule 51(a), Ariz. R. Fam. L. P.
 - h) Proposed Petition to Amend Rule 76(b)(1)(B), Ariz. R. Fam. L. P.
 - i) Proposed Petition to Amend Rule 76.1, Ariz. R. Fam. L. P.
 - j) Proposed Petition to Amend Rule 38, Ariz. R. Sup. Ct.

MOTION: Denis Fitzgibbons moved, John Moody seconded and the motion carried unanimously to approve the Consent Agenda.

Rules Review Committee – Chris Russell

- Proposed Petition to Amend Rules 30(b) and 32(d), Ariz. R. Civ. P.
 - Amendment clarifies the notice that has to be provided and the procedures that need to be followed when recording/videoing an oral deposition and its use.

QUESTIONS:

- Is there a time limit for when you have to give notice?
- Where does the Rule say you can use an iPhone or other means?
- Michael Farrell: Thinks people favor consistency with the Federal Rules; the technology is less than 25 years old; trying to provide clarity.
- Kate Mahady, a member of the Subcommittee, thought this would decrease a litigant's costs, not increase them.
- **MOTION:** Chris Russell moved, Jessica Sanchez seconded and the motion to approve the Proposed Petition to Amend Rules 30(b) and 32(d), Ariz. R. Civ. P. carried by a vote of 10-4-2.

Status Reports

- Delivery of Legal Services Implementation Team – Lisa Panahi
 - Awaiting official notice, but the Court approved the first 10 Legal Paraprofessionals. President Rebholz added that eight are in family law, one in civil, and one in criminal, according to announcement made at the previous day's AJC meeting. Also that 21 people passed the exam; the other 11 are in the character and fitness stage.
- Legislative Update – Tim Eigo
 - CCO Joe Hengemuehler and Public Service Center Manager Carol Rose completed Legislation Online Arizona training, a bill tracking platform.
 - There are still multiple ways to find legal assistance, including via the Member Directory, now that all mention of Find-A-Lawyer (FAL) has been removed from the website.
 - Legislative updates will begin in January.
- Social Justice, Bias and Inclusion Working Group – Roberta Tepper
 - Member Survey: A data sharing agreement with the University of Arizona has been drafted
 - The EC approved modified demographics questions
 - The work should be concluded in the 1st quarter
 - President Rebholz asked the Board to remind their colleagues that the survey is coming.
 - Elena Nethers is working on a supplier diversity policy.
 - Demographic data for the Bar's leadership and members is posted on the website.
- Strategic Planning Working Group – Sam Saks
 - Other than the earlier Cascade platform demonstration, nothing to report.

Correspondence/Reports

Executive Council Meeting – October 1, 2021

Executive Council Meeting – November 19, 2021

Adjourn: MOTION: Robert McWhirter moved, John Moody seconded, and the motion carried unanimously to adjourn at 11:28 a.m.

Respectfully submitted,

Ted A. Schmidt
Secretary/Treasurer