

**MEETING OF THE  
BOARD OF GOVERNORS  
OF THE  
STATE BAR OF ARIZONA  
July 24, 2020  
GoToMeeting**

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, President, Young Lawyers Division; Sharon Flack, Prescott; Mark Harrison, Phoenix; Kelsi Lane, Phoenix; Leticia Marquez, Tucson; Robert McWhirter, Phoenix; John Moody, Phoenix; David Rosenbaum, Phoenix; Eric Ruckensky, Flagstaff; D. Christopher Russell, Sierra Vista; Samuel Saks, Phoenix; Ted Schmidt, Tucson; Phoenix; Jimmie Dee Smith, Yuma; Public Members: Robyn M. Austin, Tucson; John Gordon, Prescott; Jonathan Martone, Paradise Valley; Anna C. Thomasson, Paradise Valley; At-Large Members Lori Higuera, Phoenix and Doreen McPaul, Window Rock; and Ex-Officio Members Brian Furuya, Board Advisor and Dean Mark Miller, UA Law School, Tucson.

EXCUSED ABSENCES: Hector Figueroa, Payson

UNEXCUSED ABSENCES: David K. Byers, Phoenix

OTHERS PRESENT: Deanna Commack, Executive Assistant; Sarah Corpening, Membership Administrator & Services Manager; Lisa Deane, Chief Member Services Officer; Joel England, CEO/Executive Director; Candice French, Human Resources Manager; Kathy Gerhart, Chief Financial Officer; Connie Hay, Board of Legal Specialization Administrator; Lori Maxwell, Chief Information Officer; Elena Nethers, Diversity & Outreach Advisor; Lisa Panahi, General Counsel; Amy Rehm, Deputy Chief Bar Counsel; Carrie Sherman, Director of Board Operations; Karen Van Allen, Administrative Assistant; Maret Vessella, Chief Bar Counsel; and Supreme Court Liaison Hon. James Beene.

GUESTS: Alicia Moffatt, Arizona Supreme Court, Communications Specialist and Assistant Dean Leah Won, UA Law School.

President Denis Fitzgibbons called the virtual Board Meeting to order at 8:34 a.m. He reviewed the protocol for a virtual meeting, e.g., please stay on mute unless you are speaking, and send a Chat request if you wish to be recognized to speak.

President Denis Fitzgibbons welcomed the Hon. James P. Beene, the new Court Liaison to the Board of Governors.

**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

- President Fitzgibbons welcomed the four new Board members to their first official meeting: Jena Decker-Xu, President, Young Lawyers Division; Kelsi Lane, Phoenix; Eric Ruckensky, Flagstaff; and Ted Schmidt, Tucson. The new Board members participated in an orientation earlier in the week.
- Appointments – the following appointments have been completed or are in process:
  - Board's committees/working groups - completed
  - Standing Bar committees - completed
  - Board of Legal Specialization (BLS) Advisory Commissions (completed with the exception of the new Administrative Law)
  - Senior Lawyers Division Executive Council list of applicants expected any day; appointments should be completed within the next week.
- Will attend the virtual meeting of the National Council of Bar Presidents at the end of August. All Board officers are given the opportunity to partake in this training due to the minimal registration fee and savings on usual travel costs.
- Noted concerns received from some individuals scheduled to take the Uniform Bar Exam on July 28 and 29, and the petition filed with the Court to adopt admission by diploma, which the Court denied. The Court appears to have instituted all possible measures to keep Exam takers safe.

Justice Beene: The Court studied the possibilities and wanted to ensure that the facilities were safe. They worked with the City of Phoenix (Exam will be held at the downtown Convention Center). A few judges will be going to the facility on Tuesday morning, July 28 to watch the process.

### **CEO's Report** – Joel England

- Welcomed the new Board members and Justice Beene.
- Operating posture: in the same place as last month. Bar office was closed when the pandemic hit. There has been a limited reopening with 10-15% of employees in the building on a voluntary basis. Safeguards are in place along with a wellness check and policies that were created by Maret Vessella's return to office work group.
- Quarterly Town Hall was held virtually with staff; thanked President Fitzgibbons for attending. Various honors bestowed on staff and big-ticket items were discussed.
- Arizona Attorneys Respond Legal Hotline: There have been approximately 1,000 calls taken with the largest issues being housing and employment.
  - Thanked the many volunteers (125 trained) and the Court for helping with funding the hotline
  - Has done a few radio interviews and a virtual interview with Foundation CEO Dr. Kevin Ruegg
- Will attend the virtual NABE and NCBP meetings in August
- Financial Perspective: Latest estimate is that there will be a \$400,000 - \$500,000 yearend deficit. The team is looking at things to offset this. One way is to delay hiring of the eight open positions and another way would be to possibly use some of the surplus to offset it.

**Proposed Task Force on Social Justice, Bias & Inclusion** – Denis Fitzgibbons, Joel England, Lisa Deane, Elena Nethers

- President Fitzgibbons thanked Jessica Sanchez for drafting a resolution establishing such a task force
- CEO England also thanked Lisa Deane, Mauri Hawkins, and Elena Nethers for their work in talking to stakeholders and laying the groundwork for a task force.
- Ms. Nethers summarized the diversity and inclusion initiatives and programs the State Bar has undertaken/accomplished:
  - Increasing Diversity in Bar Leadership – encourage attendees to get more involved in Sections
    - Urge BLI students to stay involved with the Bar (approximately 70% of graduates stay involved or take leadership roles in other organizations)
    - Coordinate a BLI summit in May with graduates to discuss idea sharing and foster mentor relationships
    - Maintain a listserv and online community
  - Education and Training
    - Diversity track at the Convention
    - CLE programs and diverse faculty
  - Collaboration and Partnership
    - 2020 Convention seminar on bias and racism
    - Ongoing collaboration with Bar entities, partner bars and community partners
    - September event - community dialogue on racism, discrimination and injustice in the legal profession - in partnership with the Collaborative Bar, Commission on Minorities in the Judiciary and the Center for the Study of Race and Democracy. Dr. Lois Brown will facilitate and Justice Timmer is on the faculty.

Mark Harrison said that there had been a program on bias in May. Many people have gone through the training. How do we take it to the next step and incorporate the training?

Ted Schmidt indicated that communication is important and encouraged that an *Arizona Attorney Magazine* article feature the Bar's previous, ongoing and future diversity and inclusion efforts. Also what about required CLE, possibly in ethics?

Kelsi Lane encouraged outreach to the public, especially those communities that are underserved, in general, or need guidance about their rights and legal assistance, specifically. Lisa Deane concurred that this is a great idea and that the task force is not just for Bar members, but also for the community at large.

Elena Nethers: The initial community dialogue is with the Collaborative Bar only. It was an intentional decision to limit this one. It is the first one of these conversations; then a bigger dialogue, hopefully at the Convention. Noted that a petition is ready for the Rules Review Committee's analysis - .5 Ethics credit on mandatory implicit bias training.

Sam Saks: Agrees that the Task Force and the Bar are doing a lot and thinks that action from outside the Bar should also be supported.

**MOTION:** Sam Saks moved to support the Collaborative Bar and its activities to the tune of \$5,000.

Elena Nethers reported that this bar is not a formally defined organization. There are 10 or 11 members, and they commit funds and have a few events during the year. It has been in existence for about five years and is modeled after the American Bar Association's model.

Mark Harrison: What are its stated objectives?

Sam Saks: It is a loose bar. Someone holds the funds. They operate on a relatively low budget and is a diverse organization. He subsequently emailed its Mission Statement to the Board members.

Jessica Sanchez reported that she was a chair of the Collaborative Bar. It is a formalized association and they have a Mission Statement. She likes Sam Sak's suggestion but would like the Collaborative Bar to weigh in and let the State Bar know what they need from the State Bar, and that should be the task force's purview to address.

Sam Saks: Accepted Jessica Sanchez's idea as a Friendly Amendment but urged that it be one of the first issues the task force addresses.

David Rosenbaum: Seconded. The members of the Collaborative Bar might have ideas on how to use the funds.

Joel England: The Bar currently gives out approximately \$20,000 annually in sponsorships, mostly to partner and county bar associations through a funding request application.

Denis Fitzgibbons: The task force has not been established yet. That needs to be voted on before considering Sam Saks motion.

**MOTION:** David Rosenbaum moved, Kelsi Lane seconded and the motion carried unanimously to adopt the Resolution to Establish the SBA Task Force on Social Justice, Bias and Inclusion.

**MOTION:** Sam Saks moved, David Rosenbaum seconded and the motion carried unanimously to direct that the Task Force, as one of its first undertakings, work with the Collaborative Bar to determine how the State Bar can support the Collaborative Bar in carrying out its Mission.

Board members were encouraged to contact President Fitzgibbons and Elena Nethers with ideas about internal and external programs the Task Force should consider.

Kelsi Lane sent a Chat asking whether the Task Force has a budget.

#### **Finance and Audit Committee** – Benjamin Taylor and Kathy Gerhart

Pursuant to Board policy, the Governors make an annual decision on directing any yearend cash surplus to the Capital Reserves and the Membership Fee (Dues) Reserves. The Finance and Audit Committee recommended putting \$760,986.48 in the Capital Reserve and \$809,868.07 in the Membership Fees Reserve.

**MOTION:** Coming as a motion from the Committee requiring no second, the recommendation to put cash surplus from 2019 in the Capital and Dues Reserves as described by the Finance and Audit Committee carried unanimously.

#### **Arizona Federal Judges** – Denis Fitzgibbons and Joel England

Mr. Fitzgibbons asked Brian Furuya to weigh in on this issue. Mr. Furuya reported that the findings show that Arizona federal cases are backlogged and judges are overwhelmed. U.S. Senate Bill 3321

would authorize four new district judgeships in Arizona and convert one temporary Arizona judgeship to a permanent judgeship.

Can the federal courthouses accommodate additional judges? Robert McWhirter confirmed that they do and that the courthouses were built with that idea in mind.

**MOTION:** Jennifer Rebholz moved, Jonathan Martone seconded and the motion carried unanimously to adopt the Resolution in support of S. 3321 as presented. General Counsel Lisa Panahi was thanked for drafting the Resolution.

### **Consent Agenda** – Denis Fitzgibbons

President Fitzgibbons asked if any item needs to be removed from the Consent Agenda, hearing nothing a motion was made.

**MOTION:** Lori Higuera moved, Doreen McPaul seconded and the motion unanimously to approve the Consent Agenda:

- a) Approval of June 9, 2020 Board Meeting Minutes
- b) Approval of Resignations in Good Standing
- c) Approval of Resignations in Lieu of Reinstatement
- d) Approval of Reinstatements
  - i) Reinstatements of Members Suspended for Non-Compliance with MCLE Requirements (Rule 45, Ariz. R. Sup. Ct.)
  - ii) Reinstatement of Members Suspended for Non-Compliance with Annual Membership Fee and/or Trust Account Compliance (Rule 32(c)(10) and/or Rule 43, Ariz. R. Sup. Ct.)

### **Arizona Judicial Council Meeting** – Brian Furuya

Denis Fitzgibbons circled back to his President's Report and asked Brian Furuya to report on the Arizona Judicial Council's meeting held on June 23, and also thanked him for attending the meeting. Mr. Furuya reported there was social distancing at the meeting which focused on the Courts' response to COVID-19:

- The Supreme Court's Technology Commission has been instrumental in designing the Courts' response to the pandemic through automation
- Court services have reluctantly been reduced
- Courts' budgets heavily impacted
- Passed a Code of Conduct for Court Clerks and Removal Process
- Task Force on the Delivery of Legal Services discussion was deferred to October meeting which will be held in Flagstaff

### **Status Reports**

- *Amicus Curiae* Matters – Lisa Panahi indicated that there were no significant updates since the last Board meeting.
- Legislative – CCO Joe Hengemuehler's written report was circulated to the Board following the meeting.

- Strategic Planning Working Group – Jessica Sanchez  
The Group will meet next week to review the draft of the plan’s preliminary framework.  
After incorporating any amendments, it will be circulated to the Board within a few weeks.  
Diversity has been interwoven throughout the plan, and it is listed as a strategic priority.

Adjourned at 10:14 a.m.

Respectfully submitted,

Benjamin P. Taylor, II  
Secretary/Treasurer