

**MEETING OF THE  
BOARD OF GOVERNORS  
OF THE  
STATE BAR OF ARIZONA  
June 25, 2019  
Phoenix, AZ**

BOARD MEMBERS PRESENT: Jeffrey Willis, President, Tucson; Brian Y. Furuya, President-Elect, Flagstaff; Lori Higuera, Vice President, Phoenix; Denis M. Fitzgibbons Secretary-Treasurer, Casa Grande; Geoffrey Balon, President, Young Lawyers Division; Tyler Carrell, Phoenix; Sharon Flack, Prescott; Hector Figueroa, Payson; Patrick Greene, Tombstone; Robert McWhirter, Phoenix; Jennifer Rebholz, Phoenix; Samuel Saks, Phoenix; Dee-Dee Samet, Tucson; Jessica Sanchez, Tempe; Jimmie Dee Smith, Yuma; Benjamin Taylor, Phoenix; Gaetano Testini, Phoenix; Public Members Robyn M. Austin, Tucson; Jason Cobb, Phoenix; John Gordon, Prescott; Anna C. Thomasson, Phoenix; At-Large Member Dave Byers, Phoenix; Ex-Officio Member Alex Vakula, Immediate Past President.

EXCUSED ABSENCES: David Engelman, Phoenix; Sara Siesco, Phoenix; Ex-Officio Members Dean Marc Miller, Tucson, and Dean Douglas Sylvester, Tempe.

UNEXCUSED ABSENCES: At-Large Member Paul Senseman

OTHERS PRESENT: Sarah Corpening, Membership Administrator & Services Manager; Lisa Deane, Chief Member Services Officer; Tim Eigo, Editor, *Arizona Attorney Magazine*; Joel England, CEO/Executive Director; Kathy Gerhart, Chief Financial Officer; Joe Hengemuehler, Chief Communication Officer; Ann Leslie, Executive Assistant; Hon. John Lopez, Arizona Supreme Court; Lori Maxwell, Chief Information Officer; Lisa Panahi, General Counsel; Amy Rehm, Deputy Chief Bar Counsel; Carrie Sherman, Director of Board Operations; Maret Vessella, Chief Bar Counsel; Assistant Dean Leah Won, UA College of Law; Speakers/Presenters: Lobbyist Janna Day and Hon. Patricia Norris (ret.), Senior Lawyers Task Force Chair; Board Members-Elect: Mark Harrison, John Moody, David Rosenbaum (District 6), Christopher Russell (District 4), Sandra Bensley and Leticia Marquez (District 5), At-Large Governor Doreen McPaul, YLD President-Elect Amanda Salvione.

President Jeffrey Willis called the Board meeting to order at 1:05 p.m.

**Call to the Public**

President Willis made a Call to the Public and, hearing nothing, proceeded to the next agenda item.

**President's Report** – Jeffrey Willis

- Announced that Board member Robert McWhirter is a candidate for Maricopa County Attorney
- Attended:
  - State Bar of Texas Annual Meeting: Texas has 90K plus members so their convention turnout is extraordinary; Journalist Dan Rather was the luncheon keynote speaker; social events were more formal than Arizona's.

- Arizona Judicial Council Meeting: Finalized matters that had been included on Chief Justice Bales' agenda.

### **CEO/ED Report** – Joel England

- Attended:
  - Arizona Judicial Council Meeting
  - Supreme Court's Passing of the Gavel Ceremony
- Senior Staff Hires
  - Introduced CCO Joe Hengemuehler who joined the Bar staff one week ago
  - HR Manager Candice French joins the Bar staff on July 1
- Completed 5<sup>th</sup> Annual (internal) Leadership Development Program which provides training throughout the year for the Bar's managers/supervisors
- Conducted the previous day, along with President-Elect Brian Furuya and Director of Board Operations Carrie Sherman, an orientation for the Board members-elect
- Reported that 231 Hardship Waivers had been reviewed this year; 21 were denied.

### **Introductions**

Self-introductions were made by those in attendance.

### **Legislative Report** – Janna Day

- 2019 Session lasted 135 days (Statute specifies 100-day sessions can Legislature can continue to operate by Rule)
- By Day 65 the goal is to adopt a budget, but one was not adopted until the end of the session (main reason for the long session)
- General Effective Date (August 27, 2019) – within 91 days after adjournment, citizens have a chance to consider legislation that was passed and decide whether to try to get something on the ballot
- 2020 – all 90 members of the Legislature will be up for re-election
- Bar Tracks – welcomed comments about the Bar's weekly e-newsletter which highlights bills that effect the State Bar. Is it helpful? Time to retool it?

### **Special Constitutional Appointments Committee** – Jessica Sanchez for Co-Chairs Lori Higuera and David Engelman

#### **Pima County Commission on Trial Court Appointments - Supervisorial District (SD) 3**

The SD 3 position was not addressed in the normal cycle of openings last Fall as no applications had been received. Ongoing advertising and recruitment ensued, and one applicant has now stepped forward.

The SCAC met on June 12<sup>th</sup> and screened the applicant who was deemed constitutionally qualified. After receiving a due diligence report on Neal A. Eckel, the SCAC voted unanimously to recommend him to the Board of Governors based on the criteria contained in the BOG Appointments Policy, recently amended by the Board in February 2019.

**MOTION:** Coming from the Committee requiring no second, the Board unanimously voted to submit to the Governor the name of Neal Eckel to fill the SD3 seat on the Pima County Commission on Trial Court Appointments.

Coconino County Commission on Trial Court Appointments

This is a newly forming commission. On November 6, 2018, voters in Coconino County approved a measure adopting merit selection to replace the direct election of superior court judges. Candidates for superior court judge vacancies will now apply to the 16-person Coconino County Commission on Trial Court Appointments which will nominate qualified candidates based on their merit.

Supervisorial District 1

The SCAC met on June 12 and screened the seven applications received. Pursuant to the BOG Appointments Policy, each applicant was deemed to be constitutionally qualified. After receiving the due diligence report on each applicant, each SCAC member cast up to three votes for his/her top candidates. The SCAC submits the following list of all constitutionally qualified applicants ranked in order of merit by the SCAC based on the criteria contained in the BOG Appointments Policy and recommends the four candidates who received votes from the SCAC:

<u>APPLICANT</u>	<u>POLITICAL PARTY</u>
Mr. Charles W. Doughty, Coconino County Public Defender’s Office - 7 votes	Democrat
Ms. Staci L. Foulks, Coconino County Public Defender’s Office - 6 votes	Democrat
Mr. David G. Bednar, Attorney at Law - 5 votes	Democrat
Ms. Roberta J. McVickers - 1 vote	Independent

Constitutionally qualified; received no votes from the SCAC; in alpha order:

Ms. Sarah K. Erlinder, Federal Public Defender’s Office	Democrat
Ms. Scott J. Hergenroether, The Ledbetter Law Firm	Democrat
Mr. Gary Pearlmutter, Southwest Center for Equal Justice	Democrat

**MOTION:** Coming as a motion from the SCAC, requiring no second, the Board voted unanimously to submit to the Governor the four candidates who had received votes from the SCAC for consideration to fill the SD 1 seat.

Supervisorial District 2

The SCAC met on June 12 and screened the two applications received. Pursuant to the BOG Appointments Policy, each applicant was deemed to be constitutionally qualified. After receiving the due diligence report on each applicant, each SCAC member cast one vote for his/her top candidate. The SCAC submits the following list of all constitutionally qualified applicants ranked in order of merit by the SCAC based on the criteria contained in the BOG Appointments Policy:

<u>APPLICANT</u>	<u>POLITICAL PARTY</u>
Ms. Kathryn G. Mahady, Aspey Watkins & Diesel PLLC – 4 votes	Democrat
Ms. Rose M. Winkeler, Coconino County Attorney’s Office – 3 votes	Democrat

**MOTION:** Coming as a motion from the SCAC, requiring no second, the Board voted unanimously to submit to the Governor the two candidates for consideration to fill the SD 2 seat.

Supervisorial District 3

The SCAC met on June 12 and screened the two applications received. Pursuant to the BOG Appointments Policy, each applicant was deemed to be constitutionally qualified. After receiving

the due diligence report on each applicant, each SCAC member cast one vote for his/her top candidate. The SCAC submits the following list of all constitutionally qualified applicants ranked in order of merit by the SCAC based on the criteria contained in the BOG Appointments Policy:

<u>APPLICANT</u>	<u>POLITICAL PARTY</u>
Mr. Frederick “Fritz” M. Aspey, Aspey Watkins & Diesel PLLC – 4 votes	Democrat
Ms. Julie K. Woodward, Shorall McGoldrick Brinkmann – 2 votes	Republican

**MOTION:** Coming as a motion from the SCAC, requiring no second, the Board voted unanimously to submit to the Governor the two candidates for consideration to fill the SD 3 seat.

#### Supervisory District 4

The SCAC met on June 12 and screened the four applications received. Pursuant to the BOG Appointments Policy, each applicant was deemed to be constitutionally qualified. After receiving the due diligence report on each applicant, each SCAC member cast two votes for his/her top two candidates. The SCAC submits the following list of all constitutionally qualified applicants ranked in order of merit by the SCAC based on the criteria contained in the BOG Appointments Policy and recommends the three candidates who received votes from the SCAC:

<u>APPLICANT</u>	<u>POLITICAL PARTY</u>
Mr. Ammon D. Barker, Coconino County Attorney’s Office – 5 votes	Democrat
Mr. Dennis J. Glanzer, Glanzer Law Office – 5 votes	Democrat
Mr. Tevis S. Reich, Law Office of Tevis Reich PLLC – 2 votes	Independent

#### Constitutionally qualified; received no votes from the SCAC:

Mr. Jason J. Bliss, Aspey Watkins & Diesel PLLC	Democrat
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**MOTION:** Coming as a motion from the SCAC, requiring no second, the Board voted unanimously to submit to the Governor the three candidates who had received votes from the SCAC for consideration to fill the SD 4 seat.

#### Supervisory District 5

No applications were received for the Supervisory District 5 position. There is one Active Member in that District who would be deemed constitutionally qualified. That Active Member did not submit an application.

**Senior Lawyers Task Force Report and Recommendations** – Hon. Patricia Norris (ret.) Judge Norris and Chief Member Services Officer Lisa Deane responded to Board members’ questions regarding the Task Force’s recommendations including the costs associated with the proposals. Following a lengthy discussion,

**MOTION:** Denis Fitzgibbons moved, Tyler Carrell seconded and the motion carried over one dissent to approve the report and recommendations of the Senior Lawyers Task Force.

### **Nominating Committee Report** – Alex Vakula

Pursuant to amendments to Rule 32, Ariz. R. Sup. Ct., promulgated by the Arizona Supreme Court, there shall be a Nominating Committee of the Board of Governors. Rule 32(e)(8) provides the Committee's charge: *The board advisor, with the assistance of two or more governors chosen by the president, will lead a committee to recruit, recommend, and nominate candidates for the offices of president-elect, vice president and secretary-treasurer.* President Willis appointed the following Governors to serve on the Nominating Committee with the Board Advisor [FKA immediate past president]:

Tyler Carrell

Jason Cobb

David Engelman

Lori Higuera

Anna Thomasson

Alex Vakula, Board Advisor and Nominating Committee Chair

Since this is a new way of electing officers, the Committee, in concert with the Executive Council (with the exception of Denis Fitzgibbons), developed candidate criteria guidelines and a candidate questionnaire to utilize in the process. Notice was given twice to the full Board of the opportunity to be considered for the officer positions and five Board members expressed interest.

The Committee met on June 20<sup>th</sup> to review the five candidates' questionnaires and discuss their qualifications. The Committee also unanimously agreed that its charge was to recommend one individual for each officer position although nominations from the floor would be accepted. The Committee voted unanimously to recommend the following slate of candidates to the Board:

- Denis Fitzgibbons – President-Elect
- Jennifer Rebholz – Vice President
- Jessica Sanchez – Secretary-Treasurer

**MOTION:** Dee-Dee Samet moved and Jimmie Smith seconded the nomination of Hector Figueroa for the secretary/treasurer position.

**MOTION:** Hector Figueroa moved and Dee-Dee Samet seconded the nomination of Benjamin Taylor for the secretary/treasurer position. Mr. Taylor respectfully declined. Mr. Taylor expressed concern over the process and also indicated he would like to gain more Board experience with the intention of seeking an officer position next year.

Lori Higuera summarized Mr. Fitzgibbons' qualification. Anna Thomasson summarized Ms. Rebholz's qualifications. Tyler Carrell summarized Ms. Sanchez's qualifications. The three candidates as well as Mr. Figueroa addressed the Board.

**Executive Session** – 3:01 p.m.

**MOTION:** Brian Furuya moved, Tyler Carrell seconded and the motion carried unanimously to go into Executive Session to discuss the qualifications of the four candidates. The Board reconvened in Open Session at 3:19 p.m.

**MOTION:** Sam Saks moved, Lori Higuera seconded the nomination of Denis Fitzgibbons for president-elect and the motion carried unanimously.

**MOTION:** Brian Furuya moved, Lori Higuera seconded the nomination of Jennifer Rebholz for vice president and the motion carried unanimously.

The vote for secretary-treasurer position was conducted by secret ballot. After the votes were counted it was announced that Jessica Sanchez had been elected to the position.

The Committee was directed to develop and formalize a recruitment and nomination process moving forward for Board approval.

**Consent Agenda** – Jeff Willis

- a) Approval of May 24, 2019 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.)
- e) Approval of Suspensions for Non-Compliance with Membership Fees (Rule 32(c)(10), Ariz. R. Sup. Ct.)
- f) Hardship Waiver Denials – Membership Fees
- g) MCLE Regulations (Revisited) – Revision to Regulation 101(L), Self-Study Hours for Arbitration

President Willis asked if there was anything that needed to be removed from the Consent Agenda and, hearing nothing, the following motion was made:

**MOTION:** Jessica Sanchez moved, Sam Saks seconded and the motion carried unanimously to approve the Consent Agenda.

**Finance and Audit Committee** – Denis Fitzgibbons and Kathy Gerhart

Secretary/Treasurer Denis Fitzgibbons referred to the State Bar of Arizona 401(k) plan audit for the years ended December 31, 2018 and 2017, noting a clean audit. He reported that 98.15% of the Bar staff are making their own contributions to the Bar's 401(k) program currently.

**2019 Bar Leadership Institute Summit** – Lisa Deane

The State Bar of Arizona hosted its second annual BLI Summit on May 9th. The Summit is the centerpiece of engagement for BLI graduates bringing them together to discuss important policy issues of interest to diverse lawyers. The topic changes each year and is based on survey results from the BLI graduates. Background materials were provided in advance so participants have a general understanding of the topic and prepared questions facilitate meaningful discussion.

This year, Attorney Kami Hoskins facilitated the discussion *Barriers to Success: Developing Strategies on Bias*. Through small group discussions among the thirty-two participants, two issues were identified for further exploration:

1. Should the SBA consider proposing a change to Rule 45, Ariz. R. Sup. Ct. to include an MCLE requirement addressing diversity and inclusion and/or elimination of bias for all active attorneys?

2. Should the SBA consider implementing an initiative that encourages legal employers to adopt diversity best practices?

In addition to determining the two significant issues, the BLI Summit participants drafted a personal plan identifying one action they could individually take to address the topic.

BLI Summit participants will divide into two groups with each group exploring the issues identified. Following their analysis, the groups will report back with recommendations for prospective action by the Board.

### **Status Reports**

#### **Supreme Court's Task Force on Delivery of Legal Services** – Robyn Austin and Guy Testini

The Task Force subgroups continue to study and develop proposals to unbundle services, propose amendments to Rule 38 (Special Exceptions to Standard Examination and Admission Process), propose the elimination of ER 5.4 (Professional Independence of a Lawyer) and propose amendments to ER 7.1 (to bring into alignment with changes to the ABA Model Rule in 2018) and ER 7.2(b). Extra tiers of legal service providers are also being proposed. The Task Force will vote on all proposals in July with the report/recommendations expected in August.

### **Recognition of Outgoing Board Members**

President Willis presented each individual in attendance with a memento and the Board joined in in thanking each one for his/her outstanding service:

- Geoffrey Balon, YLD President
- Tyler Carrell, District 6
- Jason Cobb, Public Governor
- David Engelman, District 6
- Patrick Greene, District 4
- Paul Senseman, At-Large Governor
- Guy Testini, District 6
- Alex Vakula, Board Advisor
- Dean Penny Willrich, Ex-Officio Governor

### **Recognition by Staff of Outgoing President Jeffrey Willis**

On behalf of the State Bar staff, CEO Joel England presented a memento to President Willis acknowledging his outstanding leadership as Bar president this past year.

### **Recognition of Outgoing President Jeffrey Willis by the Bar and Board**

On behalf of the unified Bar and the Board of Governors, President-Elect Brian Furuya presented a memento to President Willis acknowledging his outstanding leadership as Bar president this past year.

### **2019-2020 Bar Year**

President-Elect Brian Furuya provided an overview of his plans for the annual Board Retreat in July and his upcoming year as president.

**Correspondence/General Reports**

- a) Executive Council Minutes – May 7, 2019
- b) Dean Penny Willrich's Board of Governors Resignation

Adjourned at 4:24 p.m.

Respectfully submitted,

Denis Fitzgibbons  
Secretary/Treasurer