



# BAR COMMUNITY

## BOARD OF GOVERNORS MARCH MEETING REVIEW

Below are highlights from the Mar. 25, 2005, State Bar Board of Governors meeting. Meetings typically are held monthly at the Arizona Bar Center in Phoenix. To see the complete minutes, go to [www.myazbar.org/AZBarInfo](http://www.myazbar.org/AZBarInfo) and click on "Board of Governors."

- ▶ President Charles Wirken introduced Senator William Brotherton, who joined the board meeting via conference call to discuss SCR 1038, regarding modifications to the judicial selection process. The board voted to take a neutral position on SCR 1038. The motion passed over one abstention (Dave Byers).
- ▶ The board discussed the Bar's position if the bill was to change again back to unfettered gubernatorial appointment and confirmation when it is scheduled to appear before the House Judiciary Committee on March 31, before the next Board of Governors meeting. It was discussed that at the Scope and Operations meeting on March 1, a vote passed to oppose full Senate confirmation and unfettered gubernatorial appointment.
- ▶ Marnie Leinberger, BLS/MCLE: Jim West, public member, Board of Legal Specialization, appeared before the board requesting Recognition of National Certification Entities: National Board of Trial Advocacy (NBTA) and National Elder Law Foundation (NELF). The board voted to pull this item from the Consent Agenda and to table it until April to gather input from the Bar's interested groups.
- ▶ Ed Novak and Professor Paul Bennett, co-chairs of the Professionalism Task Force, made a presentation covering the Final Report of the task force. The task force proposed several solutions, including specific recommendations to the law schools; creating videos on professionalism; revising the Creed and Oath, and the task force's suggested revision of the Comment to E.R. 4.1 (truthfulness). The task force report suggested the need of creating a culture of professionalism.
- ▶ President Wirken reported that he attended the Volunteer Lawyers Awards Luncheon where the F. X. Gordon Traveling Award was given to the Access to Justice Task Force; the Arizona Judges Association meeting; Gila County Bar's Annual Dinner and University of Arizona Annual Banquet Fund Raiser, where he, Sheriff Joe Arpaio and Attorney General Terry Goddard were the celebrities challenged by others in bowling for \$1 a pin for the Law College Association, and it raised \$7,000.
- ▶ President Wirken gave an update on the Western States Bar Conference.
- ▶ President Wirken stated that the topic of personal injury law was this month's Lawyers on Call program that is held in partnership with Channel 12 television.
- ▶ President Wirken further reported attending the online discussion regarding Discipline on the Web with section leaders conducted by the Membership Services Committee, Whitney Cunningham, Chair.
- ▶ President Wirken reported that a letter had been sent to Congressman Jeff Flake regarding the Bar's opposition to the Bankruptcy Act legislation before Congress. The bill will be heard in committee on April 4 and then return to the full House for consideration.
- ▶ Teresa Schmid, Executive Director, noted that "today is moving day" for the State Bar to the new location at 4201 N. 24th Street, Suite 200, Phoenix.
- ▶ Ms. Schmid reported that the Foundation for Legal Services & Education were moved in and have a separate entrance. The IOLTA agreements with the banks are being drafted. Ms. Schmid also reported that the Proclamation by the Governor had been signed declaring April as Legal Services Month.
- ▶ Ms. Schmid gave highlights of the Chief Staff Executive and Bar Leaders Institute and the topics covered.
- ▶ Ms. Schmid previewed the Western States Bar Conference, and the issues being discussed among the larger state Bars were: (1) multi-jurisdictional practice and "four corners" reciprocity agreements; (2) relations between state bars and their legislatures; (3) ABA governance: balance of voting between state and local bars and ABA sections; (4) funding crises of the courts; (5) federal regulation of lawyers (e.g., Sarbanes-Oxley, Bankruptcy Act); (6) what state bars do that members really love.
- ▶ Ms. Schmid reported on the upcoming ABA Day in Washington and the list of priorities include (1) funding for the Legal Services Corporation; (2) antiterrorism and the Patriot Act; (3) lawyer/client privilege; (4) federal tort law; (5) legal immigration; (6) independence of the legal profession/judiciary; and (6) tax implications, etc.
- ▶ Ms. Schmid also gave her "On the Horizon" report to the board.
- ▶ Ms. Schmid asked the board to review that portion of her ED Report regarding the meetings she had attended over the past month and key future dates and activities she will be attending.
- ▶ Larry McVey, Chief Financial Officer, reviewed the January 2005 financial statements.
- ▶ Ed Novak, Chair of the Finance Committee, congratulated Larry McVey and Teresa Schmid on the move of the State Bar. The building budgeted improvements were \$1.3 million and came in around \$1 million. Mr. Novak, on behalf of the committee, thanked and commended Ron Messerly of Snell and Wilmer LLP for his negotiations in the tenant improvements and help on the building and thanked all of the dedicated staff who worked so hard during this move process.
- ▶ Robert Van Wyck, Chief Bar Counsel, reported that Lawyer Regulation was fully staffed with lawyers, and recently several UPL cases were successfully prosecuted. He reported on the Discipline statistics and said that professionalism is critical.
- ▶ Dan McAuliffe, Chair of Appointments Committee, reported on the candidates for the Conflict Case Committee and the committee's recommendation to reappoint Michael R. Palumbo and Donald M. Peters to serve a second three-year term and appoint J. Vincent Gonzalez to serve his first three-year term. The board voted unanimously to approve the Appointment Committee's recommendations.
- ▶ Christine Thompson, Director of Government Relations, reported on the bills before the Legislature. The board unanimously adopted the "support" and "oppose" positions as recommended but took no position on the remaining bills and directed staff to monitor them as the session unfolds.

## STANDING COMMITTEE REPORTS

- ▶ Amicus Committee, Dan McAuliffe, Chair, reported that there was no word on the James Hamm case.
- ▶ Building Relocation Committee, Larry McVey, CFO, reported that the contractor finished on March 18, which was ahead of schedule thanks to Chas Wirken and Dan McAuliffe. There is a Dedication being planned with Cari Gerchick as Chair. LexisNexis is sponsoring \$9,000 toward this event.
- ▶ Discipline Committee: Paul Ahler, Chair of the Discipline subcommittee on petition 04-0032, reviewed the comment regarding petition R-04-0032, which addresses the rules governing admissions and reinstatements to the practice of law in Arizona. The board voted to adopt the comment to Petition R-04-0032 as amended and file the comment with the Court over one abstention (Dave Byers).
- ▶ Human Resources, James Matthews, Chair, reviewed the Human Resources at the Bar update along with the Compensation Philosophy that is presented this month for a vote in April.
- ▶ Long Range Plan, Steve Sherick, Chair, reported that the committee will meet quarterly to review the plan and progress.
- ▶ Member Services, Whitney Cunningham, Chair, reported on the March 4 Sections meeting live with audio interactive. He thanked staff for making this possible and for Helen Perry Grimwood for fielding questions on Discipline on the Web. Seventeen of 28 sections participated in the meeting.
- ▶ Rules Review: Jeff Willis reported on the ABA communication on the Model Rule of the Virginia State Bar. He reviewed the last three years' considerations for Mandatory Insurance and Disclosure and the Virginia Rule. April 4 is the deadline for comment on R-04-0025 Petition Regarding ABA Model Rules on Insurance Disclosure.
- ▶ The board voted to adopt the draft comment on R-04-0025 Petition Regarding ABA Model Rules on Insurance Disclosure and submit to the court with the following amendment: On page 3, in the last paragraph after "thousands of clients," add "This, however, is not a consequence of the rule proposed by the ABA." The motion carried unanimously.
- ▶ The board voted unanimously to approve Item 10, February Board Minutes; Item

11, Approval of Resignations of Members in Good Standing and Item 13, Approval of Reinstatements from the Consent Agenda.

- ▶ The board voted unanimously to approve the updated list of MCLE suspensions (Item 12) knowing that number 49 will file an affidavit March 28.
- ▶ Liaison Reports were given by the American Bar Association, Arizona Foundation for Legal Services & Education, Arizona Judicial Council and Young Lawyer Division.
- ▶ The board voted unanimously to accept the recommendation as submitted of the Young Lawyers Division regarding the bylaw amendment that would allow associate membership to military lawyers (JAGs) stationed in Arizona who are not SBA members; however, they can participate in all activities but would be nonvoting.

## APRIL MEETING REVIEW

Below are highlights from the April 15, 2005, State Bar Board of Governors meeting.

- ▶ President Charles Wirken provided a review of his attendance at the Arizona Judicial Counsel, noting that the court is updating its strategic goals, one of which is improving the legal profession.
- ▶ President Wirken reported on the upcoming board officers' election being held in June and the protocol for the meeting.
- ▶ Teresa Schmid, Executive Director, reported that staff appreciation will be held late in May starting with the kickoff post-board meeting May 20. Ms. Schmid reviewed her first quarterly report to the board, updating the advancement of the Long Range Plan by goals. The report summarized activities of the Executive Director and key dates for the future.
- ▶ Ms. Schmid also gave her "On the Horizon" report to the board.
- ▶ Larry McVey, Chief Financial Officer, reviewed the February 2005 financial statements in detail.
- ▶ Ed Novak, Chair of Finance Committee, reported that the Finance Committee had approved purchasing a table at the Valley Leadership Luncheon, honoring Ernest Calderón as Man of the Year and Nadine Basha as Woman of the Year on April 21.
- ▶ The Finance Committee approved purchasing a table at the "Tribute to Justice" dinner being held on May 7, honoring Charles E. Jones, Chief Justice, Arizona Supreme Court.
- ▶ Ed Novak reported on the Dues Subcommittee meetings and their efforts to continue to study the different categories of membership. Mr. Novak reported that the Arizona Foundation for Legal Services & Education's audit has been completed, and the audit of the State Bar and Client Protection Fund will begin soon.
- ▶ John Furlong, General Counsel, on behalf of Robert Van Wyck, Chief Bar Counsel, reported that Lawyer Regulation was fully staffed with lawyers. Mr. Furlong reported that the annual report was completed and about to be published.
- ▶ Ed Novak, Co-Chair of the Professionalism Task Force, presented the recommendations of the task force and the revised Creed of Professionalism and the Oath. After a lengthy discussion, this matter was tabled to the May 20 meeting for a vote.
- ▶ James Matthews, Chair of the Human Resources Committee, reported on the online evaluation for the Executive Director, which would be ready in the new few weeks. Mr. Matthews further reported

- on the Compensation Philosophy.
- ▶ The board approved unanimously to adopt the Compensation Philosophy as recommended by the Human Resources Committee.
  - ▶ Marnie Leinberger, BLS/MCLE, and Jim West, public member, Board of Legal Specialization, appeared before the board requesting Recognition of National Certification Entities: National Board of Trial Advocacy (NBTA) and National Elder Law Foundation (NELF). The board approved the recommendation in a 12-10 vote.
  - ▶ Jim Smith, Chair of the Awards Nominating Committee, reported on recommendations of the committee. The board unanimously approved the following: James A. Walsh Outstanding Jurist Award–Hon. Michael D. Ryan; Award of Special Merit–Frances L. Johansen; Member of the Year Award–Michael V. Mulchay and Ronald W. Messerly; Sharon A. Fullmer Legal Aid Attorney of the Year Award–George H. McKay; Award of Appreciation (non-lawyer)–Emily R. Johnston; Tom Karas Criminal Justice Award–Robert J. Hirsh.
  - ▶ Christine Thompson, Director of Government Relations, reported on the bills before the legislature. The board unanimously adopted the “support” and “oppose” positions as recommended, but took no position on the remaining bills and directed staff to monitor them as the session unfolds.
  - ▶ Ms. Thompson reported that the Legislature had re-introduced the budget and continues to work on a compromise. The Uniform Arbitration Act had failed to receive a hearing in committee.
  - ▶ Dan McAuliffe, Chair of the Appointments Committee, reported that Emily Johnston and Jim Matthews would be leaving the board as public members. The committee will be screening 23 applications on April 27.
  - ▶ Mr. McAuliffe further reported that appointment applications are due for the following: ABA House of Delegates (35 years or younger); City of Glendale City Advisory Board; Client Protection Fund; Conflict Case Committee (2 members short).
  - ▶ Foster Robberson, Chair of the Criminal Jury Instructions Committee, and Nedra Brown, Director of Committees and Sections, reviewed the handout highlighting the contentious items on the jury instructions. A CD-ROM was mailed to each board member with the entire jury instructions. This will be voted upon in May.

- ▶ Amicus Committee, Dan McAuliffe, Chair, reported that there was no word on the James Hamm appeal to the Supreme Court.
- ▶ Mr. McAuliffe reported that the State Bar had requested leave to appear as *amicus curiae* in a Petition for Special Action filed in the Supreme Court seeking a waiver of *pro hac vice* application fees for federal prosecutors.
- ▶ Building Relocation Committee: Dan McAuliffe reported that the committee was disbanding. Larry McVey, CFO, had a written Certificate of Completion from the City of Phoenix, which means that 80 percent to 90 percent of the furniture and fixtures are in place.
- ▶ Human Resources, James Matthews, Chair, reviewed the Human Resources at the Bar update, which gives an overview of the current status of recruitment, turnover, staff development, benefits, professional activities and On the Horizon information.
- ▶ Long Range Plan, Steve Sherick, Chair, reported that

the committee will meet in May.

- ▶ Member Services, Whitney Cunningham, Chair, reported that the Bar Leadership Institute is planned for the afternoon of September 16 board meeting. He reported that the committee had been working on development of a "Turnkey Law Office Model."
- ▶ Rules Review, Foster Robberson, Chair, reviewed draft Comment on 04-0004, which was returned to the Bar for consideration of how to address the loss of revenue generated by subpoena fees. Rules proposed that although the Bar is supportive of attorney issuance of subpoenas and it is not in a political position to address the fund issues raised by a change in the current scheme, the Bar is willing to participate in ongoing dialogue and study of this issue.
- ▶ The board passed over one abstention (Amelia Craig Cramer) the motion to approve the comment on 04-0004.
- ▶ Marnie Leinberger, Mandatory Continuing Legal Education

and Board of Legal Specialization (BLS), on behalf of the Committee submitted to the board in October 2004 the committee's request that there be a limit of 10 (2/3) of the full MCLE requirement for teaching and writing credit combined. The board asked the committee to expand on its reasoning. After a lengthy discussion by the board, they requested a member of the committee appear before the board to defend and support their position at the next board meeting.

- ▶ Nedra Brown, Director of Committees and Sections, presented the Real Property Section's Bylaw Change Request. After consideration the board unanimously voted to approve the bylaw change as recommended by the committee.
- ▶ The board received the Board calendar for 2005-2006 board year for consideration.
- ▶ Chas Wirken reported on the revival of the Arizona College of Trial Advocacy. Mr. Wirken stated that this conference is not a CLE department pro-

duction but is being conducted by the Trial Practice Section. The conference will be at the Black Canyon Center, July 26-30, for \$1,300 for the five days. The space is limited to 48 people.

- ▶ The board conditionally approved the Resignation in Good Standing Report as corrected.
- ▶ The board unanimously approved the remaining Consent Agenda Items 17-20, which included: Mar. 25, 2005, minutes as amended; Approval of Resignations of Members in Good Standing; MCLE Suspensions and Approval of Reinstatements.
- ▶ Liaison Reports were given by the American Bar Association, Arizona Foundation for Legal Services & Education, Arizona Judicial Council and Young Lawyer Division.
- ▶ The board voted unanimously to support the Florence Project and to approve its request for waiver of the requirement of a full-time staff attorney membership in the Arizona Bar in order to receive IOLTA funds.

Application Deadline— July 29, 2005

For more information and an application, go to [www.myazbar.org](http://www.myazbar.org) and refer to “Appointments Committee News” or contact Carrie Sherman at (602) 340-7201 or at [carrie.sherman@staff.azbar.org](mailto:carrie.sherman@staff.azbar.org).

## Arizona Supreme Court Committee on Character and Fitness

**Purpose:** Investigate and recommend applicants for admission to the State Bar of Arizona

**Openings:** One      **Length of Term:** Seven years

**Candidate Criteria:** Open to active State Bar members in good standing; experienced (5+ years) attorneys preferred

## Arizona Supreme Court Committee on Examinations

**Purpose:** Prepare, administer and grade required bar examinations

**Openings:** Two      **Length of Terms:** One six-year term; one seven-year term

**Candidate Criteria:** Open to active State Bar members in good standing; experienced (5+ years) attorneys preferred

# PEOPLE, HONORS & AWARDS



CÁRDENAS

Lewis and Roca LLP chairman José A. Cárdenas has been selected to a lifetime membership on the Council of

Foreign Relations. The Council is an independent national organization that offers nonpartisan ideas about foreign policy choices facing the United States and other governments.

Dianne Post has been selected as the Legal Director of the European Roma Rights Center in Budapest, Hungary, and will be directing cases for Roma rights at the European Court of Human Rights and U.N.

Tribunals.

Mark K. Briggs, a partner with Quarles & Brady Streich Lang LLP, was named the new chairman of the board of directors for the Arizona Humane Society.

Greg Fairbourn, a partner with Bonnett Fairbourn Friedman & Balint PC, has become a Fellow of the American College of Trial Lawyers.

The law firm of Gallagher & Kennedy PA received the Alexis de Tocqueville Campaign Excellence Award from the Valley of the Sun



BRIGGS

United Way, honoring it for leadership giving and top campaigns in the 100-249 employees category.



DAWSON

Snell & Wilmer partner Barbara Dawson has been named a Fellow by the American Bar Foundation.

The Arizona Asian American Bar Association announced its 2005 offi-

cers: George Chen (Bryan Cave), president; Emily Chang (Greenberg Traurig), vice-president; Catherine Parker-Williams (Maricopa County Public Defender’s Office), secretary; and Eileen Lanterman (Maricopa County Legal Advocate’s Office), treasurer. Its 2005 Board of Directors: Randy Aoyama (Renaud Cook Drury Mesaros), Jeri Kishiyama Auther (Governor’s Regulatory Review Council), Patrick Black (Fennemore Craig), Leezie Kim (Quarles & Brady Streich Lang), Viet Le (Avnet, Inc.), Leonard Loo (Gallagher & Kennedy), Eleanor Terpstra (Maricopa County Public Defender’s Office), and ex-officio Teresita T. Mercado (Squire Sanders & Dempsey).