



# BAR COMMUNITY

## BOARD OF GOVERNORS

## JANUARY MEETING REVIEW

Below are highlights from the Jan. 27, 2012, meeting of the State Bar Board of Governors, held at the Arizona Supreme Court. To see the complete minutes go to [www.azbar.org/aboutus/leadership/boardofgovernors/minutes](http://www.azbar.org/aboutus/leadership/boardofgovernors/minutes).

- ▶ **President's Report**—President Joseph A. Kanefield stated that the ABA midyear meeting would be held in New Orleans in early February and referenced the House of Delegates agenda in the Board's material. Jim Smith, one of the Bar's four ABA Delegates, indicated that the delegates held a conference call with SBA staff to discuss the proposals, with attention always given to potential *Keller* issues. After discussion, the board voted to suggest that the delegation vote to support Report 107 (reaffirms black letter of the ABA Standards for Imposing Lawyer Sanctions) and Report 113 (adopts the ABA Standards for Language Access in Courts), but to not vote on Report 109 (UN's "Protect, Respect and Remedy" Framework of Business and Human Rights) as taking a position may violate *Keller*.
- ▶ **ABA's Bar Leadership Institute in Chicago**—President Kanefield reported that Gaetano Testini, President of Los Abogados, will receive one of five scholarships to attend the American Bar Association's Bar Leadership Institute (BLI) in March in Chicago. This is the second consecutive year that an Arizona candidate has been selected. The State Bar will contribute \$500, with the ABA waiving the \$575 registration fee and paying \$500 toward costs.
- ▶ **Access to Justice**—President Kanefield reported that the \$300,000 earmarked for legal services initiatives has been distributed to Arizona's three legal service providers as directed by the Board of Governors.
- ▶ **CEO/Executive Director Report**—CEO/Executive

Director John Phelps reported on the following:

- ▶ The online dues process is going well.
- ▶ First-floor renovation projects are on schedule and budget. The move is going well, and the Bar has continued to deliver services without interruption. The ribbon-cutting ceremony is scheduled for April 27.
- ▶ **Appointments Committee**—Chair Richard Platt:
  - ▶ reviewed the Supreme Court's selections, from the list of nominations submitted by the Bar to fill seats on the Character and Fitness and Exams Committees.
  - ▶ stated that in March, the committee will address one position on the Conflict Case Committee, currently held by incumbent Mark Harrison, who is seeking reappointment, and one position on the City of Glendale Judicial Selection Advisory Board, currently held by incumbent Terrence Mead, who is also seeking reappointment.
- ▶ **Consent Agenda**—The bBoard voted to approve the following: (a) Dec, 16, 2012, Board of Governors Meeting Minutes; (b) Resignations in Good Standing; (c) Resignation in Lieu of Reinstatements; (d) Reinstatement to Practice of Member(s) Suspended for Non-compliance with Annual Membership Dues and/or Trust Account Compliance Rule 32(c)(10) and/or Rule 43, ARIZ.R.S.CT.; (e) Dues Waiver Requests; and (f) Sections Model Section Bylaws and Intellectual Property Section Bylaws.
- ▶ **Legislative Update**—Lobbyists Janna Day and Mark Bolton noted the numerous changes in leadership at the State Capitol. Several legislators will resign to run for U.S. Congresswoman Gabrielle Gifford's seat.

- ▶ Rep. Cecil Ash is sponsoring a bill from the Mental Health/Elder Law Section, with no opposition to date.
- ▶ A number of merit-selection bills have been introduced, including one that would reduce the number of Court of Appeals judges to three in each Division; and one that calls for election of all judges.
- ▶ A summary of the bills and their status will be emailed to the board.
- ▶ **Rules Committee**—Chair Lisa Loo reported on the following:
  - ▶ R-10-0031, Petition to Amend ER 8.4, Rule 42, ARIZ.R.S.CT.: By Order filed on Dec. 22, 2011, the Arizona Supreme Court granted the State Bar's motion to withdraw its petition to Amend ER 8.4 to permit further study of the issue. President Kanefield and President-Elect Amelia Craig Cramer will appoint a task force to study the issue. Bar member Cathi Herrod filed a Petition to amend the same ER 8.4 comment. Recommendations of the Task Force are due to the Rules Committee in March, with the bBoard review in April and a vote in May.
  - ▶ R-12-0002, Petition to Amend Rule 34, ARIZ.R.S.CT., proposed by the three Arizona law schools to permit third-year law students to take the February Bar Exam was filed by the three Arizona law schools.
  - ▶ R-11-0031, Petition to Amend Rule 55(a), ARIZ.R.CIV.PROC., and Rule 44, ARIZ.R.FAMILY.L.PROC., regarding Entries of Default—filed by the Superior Court.
  - ▶ Petition filed by the Committee on Civil Rules of Procedure for Limited Jurisdiction Courts.
    1. AZ Supreme Court Administrative Order 2011-13 established this committee to further the goals of the 20/20 Strategic Agenda. The committee's recommendations were approved by the Arizona Judicial Council, and the petition was filed to make the justice court rules of civil procedure "more comprehensible" to self-represented litigants and to address the situations when the rules in superior court do not apply. A number of simplifying changes were made including the elimination of the use of the word "shall" which was replaced with the words "must," "may," or "should."
    2. Expedited Schedule: March 16 comments due, April 27 amended petition, May 29 comments to amended petition due, June 29 committee may respond to comments to amended petition.
    3. Comments received from Legal Services Committee: LSC supports petition but has some suggestions to meet the legal needs of the indigent and working-poor in Arizona.
    4. Committee on Civil Practice and Procedure is reviewing petition on a procedural level. CPPC will work with Legal Services Committee and also review the petition on a substantive level.
    5. Will contact Consumer Protection Committee again to see if it has any comments.
  - ▶ Comment to R-11-0017, Petition to Amend Rule 26(b)(4) (Information): To address discoverability of communications with testifying expert witnesses. Matter tabled pending further study.
  - ▶ Access to Justice Task Force Recommendations: Petitions to be filed in a time-frame to ask the Court to consider these petitions in this year's rules cycle.
    1. Petition to Amend Rules 38, Arizona Rules of the Supreme Court (to increase and clarify the pool of lawyers eligible to provide pro bono services):

Sent to UPL and In-House Counsel Committees for comment.

2. Petition to Amend ERs 1.5, 4.2, 4.3 and 6.5, Rule 42, ARIZ.R.S.CT., and Rules 5.1and 11, ARIZ.R.CIV.PROC. (to amend several ethical and procedural rules to facilitate lawyers' ability to engage in limited-scope or short-term legal representation): Sent to Legal Services Committee, Ethics Committee, CPPC, Solo and Small Firms and to be published in *eLegal*.
3. Petition to Amend Rule 38 (a), ARIZ.R.S.CT. (to increase the percentage of fees paid by pro hac vice applicants that is set aside for civil legal services). This amount was approved by the board at the December meeting. Petition is being reviewed by the Finance Committee.

► **Proposed Changes to Fee Arbitration Rules (Vote)**

1. The proposed amendments include administrative changes, the addition of definitions, changes in procedure, and clarification of Rules, all of which address confusion or problems Fee Arbitration Committee Members have repeatedly had to address in the course of past fee arbitration matters.
2. The Rules Committee voted unanimously to approve with the change of "shall" to "will" and deletion of "per the rulings of the Supreme Court of Arizona" prior to citation in IV.B.13.
3. The Fee Arbitration Committee also recommended to add to both the Rules and the Agreement to Arbitrate and acknowledgment by the parties that awards containing fee reductions to the client of 50 percent or more of the fees charged or that contain information regarding possible ethical violations may be referred to the Attorney/Consumer Assistance Program of the State Bar's Lawyer

Regulation Office for review. This addition will allow the committee to refer matters dealing with "excessive fees" or possible ethical violations to the Attorney/Consumer Assistance Program for further review without possible repercussions to the Program or Arbitrator.

4. The motion on the floor came from the Rules Committee to adopt the changes suggested in the Fee Arbitration Rules. Motion was amended to remove that portion of the Rule regarding referral to Attorney/Consumer Assistance Program of the State Bar's Lawyer Regulation Office for review if the matter results awards containing fee reductions to the client of 50 percent or more of the fees charged. The original motion as amended passed unanimously.

► **Finance Committee**—Chair Whitney Cunningham reported:

- on the exemplary work of Kathy Gerhart as Interim CFO. The board unanimously voted to approve CEO John Phelps's selection of Kathy Gerhart as State Bar of Arizona CFO.
- Tony Finley, Chair of the Audit Committee, reported that Miller Allen & Co will again conduct the outside audit.
- CFO Kathy Gerhart reviewed the November financials indicating an unfavorable variance of \$113,000. The final December financials project an end-of-year surplus of \$180,000.
- The Finance Committee will return to the board with comparisons of 15, 25 and 50 percent against the current 15 percent of pro hac vice fees that support legal services, and any financial impact to the Bar.
- The line of credit was paid off that week.

► **Strategic Planning**—Chair Amelia Craig Cramer reported that:

- The committee has completed its review and edits to the

entire strategic plan and every action item.

Responsible parties and deadlines have been added. The proposal goes to the board in April for information and May for a vote.

- Board Fellow Mohit Mehta determined that the current software is not capable of running reports on areas of study, such as recidivism in the lawyer discipline system. He will come up with the requirements for IT when the software is replaced, currently anticipated in 2013.
- **Sections**—Revised Section Guidelines and Reporting Forms will be information next month and for vote in March. The guidelines have been vetted by all sections.
- **Chief Bar Counsel Report**—Maret Vessella reported that the Discipline Oversight Committee met. Judge William J. O'Neil filed a Petition regarding interim suspensions.

Ms. Vessella will attend the National Organization of Bar Counsel meeting next week, which will include updates on Ethics 20/20 and topics such as specific discipline issues as they relate to new lawyers and statistics on how lawyers are getting work.

On February 8, a CLE on the new lawyer discipline system is planned at the Bar offices with Judge O'Neil and Justice Michael Ryan and respondents' counsel Scott Rhodes.

- **CCCF Committee**—Chair Jana Flagler reported that the committee is working on coordinating public announcements regarding the \$300,000 distributed to the legal services agencies, developing a reporting form for the legal aid providers to use regarding said financial awards, and coordinating the calendars of the Bar and the AzFLS&E. Work continues on the Memo of Understanding between the AzFLS&E and the State Bar.
- **MCLE Task Force Report**—Chair Tom Crowe asked that the board vote on the following recommendation: "The regulations for certified legal specialists be changed to allow specialists to carry-forward CLE hours.

Further, the task force recommends that specialists be permitted to carry forward 5 hours of CLE in the member's area of specialty. Of those 5 hours, a maximum of three hours may be in the area of professional responsibility." The board voted to approve the recommendation.

► **Liaison Reports**—

- **ABA House of Delegates**—Previously provided
- **Arizona Asian American Bar Association**—Lisa Loo reported on member development efforts:
  - A reception for Bryce Suzuki and Melissa Ho was held on January 26.
  - There are only four Asian American partners in large Maricopa County large firms.
  - The annual dinner will be held April 26 with keynote speaker Dr. Henry Lee, University of New Haven, Forensics.
- **Arizona Foundation for Legal Services & Education**—Meredith Peabody reported:
  - The first board meeting and orientation for 2012 was held on January 26.
  - They are requesting nominations for the awards they will present at the annual State Bar Convention.
  - They reviewed their 2011 Strategic Plan and their accomplishments toward their goals.
  - A new Five-Year Strategic Plan (as this one ends in 2012) will be drafted that plans to include a Development Plan and specific actions that would support and tie into the mission of the organization. The board voted to establish a committee to work on a new strategic plan as 2012 is the final year of the current five-year strategic plan. The work of the fundraising development plan will be included in the new strategic planning process.
  - The board agreed to release an RFP to develop a five-year fund raising plan, which would be incorporated into the new Five-Year Strategic Plan (as the current one ends in 2012).
  - The Modest Means program has grown over the past year

and solicited more help from the board members.

- ▶ The current voluntary contributions to the Foundation are at \$67,000, compared to \$33,000 at the same time last year. This increase may be due to the efforts of Rick DeBruhl and the State Bar's IT Department in enhancing the request for contributions to the Foundation that appears on the online annual dues statement.
- ▶ The money from Pro Hac Vice is matched by over a million dollars annually through other contributions. In answer to a board member question regarding what does the foundation contribute toward legal aid, it was reported that the Foundation disburses more than \$1 million dollars annually toward legal aid services outside of the pro hac vice funds received.
- ▶ **Arizona Women Lawyers Association**—President Kimberly Demarchi reported:
  - ▶ The Maricopa County Chapter's February 29 luncheon meeting will feature Lynda Shely presenting the ethics game for CLE credit.
  - ▶ A representative will attend the Bar Leadership Institute.
  - ▶ They are working to develop a database of model policies and best practices for employers.
- ▶ **Los Abogados Hispanic Bar Association**—Gaetano Testini, newly elected President, thanked the board for the opportunity to attend the BLI in Chicago. Mr. Testini stated that the new makeup of the Los Abogados board—13 of 18 members who are in their first or second year on the board, and seven who are current or former BLI participants.
  - ▶ On February 21, Los Abogados and the Arizona Minority Bar Association host "A Conversation with Chief Judge Alex Kozinski, Ninth Circuit Court of Appeals" in Tucson.
  - ▶ On February 23: First luncheon at the University Club, Phoenix, with Rep. Raul Grijalva as speaker.
  - ▶ March 16: First happy hour, sponsored by Litigation Services.
  - ▶ March 24: Gala, 6:00 p.m. at Pointe Hilton Tapatío Cliffs.
  - ▶ September 20: Joint luncheon in Tucson with Arizona Minority Bar Association.
  - ▶ New website will be launched shortly.
- ▶ **Native American Bar Association**—CEO/Executive Director John Phelps to present CLE on February 9.
- ▶ **Young Lawyers Division**—February 23: Free networking event.
- ▶ **Geographical/County Bar Reports**
  - ▶ **Maricopa County Bar Association**—Jack Levine reported that Jennifer

Cranston (Gallagher & Kennedy) is the new board president. President-Elect David Funkhouser was introduced to the board.

- ▶ **Committees/Sections:**
  - ▶ Immigration Section—Bench/Bar event Feb. 3 at the University Club.
  - ▶ Family Law Practice and Procedure Committee—Working on revisions regarding the interviewing of children with certain rules and restrictions.
- ▶ **Law Schools**—Associate Dean for Academic Affairs Judy Stinson, ASU, reported that:
  - ▶ The search for a Dean is moving quickly, with interviews in February and candidates on campus in March.
  - ▶ ASU Law School still plans on moving downtown, but there isn't a date for a groundbreaking.
  - ▶ LSAT numbers are down again 12 percent, and test-taking is down 15 percent.
- ▶ **Other Business:**
  - ▶ Mike Baumstark announced that Vice-Chief Justice Andrew D. Hurwitz appeared before the U.S. Senate Judiciary Committee regarding his nomination to fill a Ninth Circuit judgeship.
  - ▶ Nominations are due by March 16 for the annual State Bar awards to be presented at Convention.
- ▶ **Obituaries**—To honor our members who have passed, a web page has been created and will be posted at [www.azbar.org/NewsEvents/InMemoriam](http://www.azbar.org/NewsEvents/InMemoriam).
- ▶ **Reminder**—The new Maricopa County Court Tower ribbon cutting is on February 14 at 3:00 p.m., with the Hon. Sandra Day O'Connor speaking.
- ▶ **Meeting Schedule**—The next board meeting will be held on February 24 at 8:30 a.m. The full schedule is posted on the Bar's website: [www.azbar.org/aboutus/leadership/boardofgovernors/meetingschedule](http://www.azbar.org/aboutus/leadership/boardofgovernors/meetingschedule)

**Patrick Irvine** has joined **Fennemore Craig's** Phoenix office as of counsel practicing in the areas of state and local taxation, tax litigation and appeals. Prior to joining the firm, he served as a judge on Division One of the Arizona Court of Appeals for more than nine years.

**Stephen A. Owens**, who led the U.S. Environmental Protection Agency's programs on chemicals and pesticides under President Obama and is a former director of the Arizona Department of Environmental Quality, has joined **Squire, Sanders & Dempsey**.

**Aaron Harmon**, a Delaware corporate attorney, joined **Osborn Maledon PA**, Phoenix, as an associate.

Perkins Coie promoted **David J. Palmer** and **Mark E. Strickland** to partner in the Patent Litigation practice in Phoenix.

**Sean Hood** joined **Fennemore Craig's** Phoenix office as a shareholder in the Commercial Litigation practice. His practice will focus on commercial litigation, water litigation, and natural resources and endangered species litigation.



**Doug Janicik** was promoted to of counsel at **Steptoe & Johnson LLP**. He practices in the firm's Phoenix office, which is celebrating its 25th anniversary in 2012.



**Hon. Richard J. Trujillo** (ret.) has joined **Rader Lucero PLLC**, a boutique family law firm, as of counsel. He is available to serve as mediator, arbitrator and discovery master for family law, personal injury matters and other civil matters. Judge Trujillo will also continue to practice in the areas of family law, criminal defense and personal injury and may be reached at Rader Lucero, PLLC. 11010 N. Tatum Blvd., Suite D-102, Phoenix 85028; 480.636.1888; Vega@RaderLucero.com.



**Trisha L. Baggs** has re-joined the Phoenix office of **Quarles & Brady LLP** as an attorney in the Trusts & Estates Group. She previously was in private practice.

Also joining the firm's Phoenix office is



**Michael A. McCanse** as an associate in the Commercial Litigation Group.



**Andrew L. Plattner** joined **Sherman & Howard** as a member of the Health Care and Wealth Transfer Practice Groups in the firm's Scottsdale office.

**Jennings, Strauss & Salmon, PLC**, Phoenix, announced that **Bradley V. Martorana** was elected a member of the firm, effective January 1.

Joining the firm's Phoenix office as a litigation associate is **Adam M. Romney**.

**Fennemore Craig** announced the election of five new shareholders in the firm's Phoenix office, effective January 1: **Aaron Cain** (Business and Finance Practice Group), **James Goodnow** (Plaintiffs' Personal Injury Practice Group), **Whitney Sedwick Meister** (Employment and Labor Relations Practice Group), **Tyler Stradling** (Real Estate Practice Group), and **C.W. Ross** (Business and Finance Practice Group).

**Snell & Wilmer** announced the election of new Phoenix partners; the promotions went into effect on January 1: **Damon Ashcraft** (Intellectual Property), **Matthew Donovan** (Tax, Employee Benefits & Estate Planning), **Carlene Lowry** (Tax, Employee Benefits & Estate Planning), and **Angela Perez** (Business & Finance).

**Victoria L. Orze** joined **Dickinson Wright PLLC** as a member in the firm's Phoenix office.

**Maribeth Klein**, an attorney with **Polsinelli Shughart**, was elected to serve a three-year term with the **Arizona State Parks Foundation**. The foundation stands as the partner to assist Arizona State Parks in fulfilling its mission

Send items for the People column to [arizona.attorney@azbar.org](mailto:arizona.attorney@azbar.org).

Items run free of charge, but because we receive many submissions, we cannot guarantee when an item will run. If you also send a photo with the item, we try to use it, depending on that month's space and the photo quality (high-resolution required).



through education, community participation and financial support.



**Hillary Gagnon**, a partner with **Jennings, Haug & Cunningham**, was elected to serve a three-year term on the board of the **Maricopa County Bar Association's** Estate Planning, Probate and Trust Section, which commences in January 2012.

Her practice is focused in estate planning and probate law, as well as commercial litigation.

**Alan Feldman**, an attorney with the Phoenix office of **Steptoe & Johnson LLP**, was elected Vice Chair of the Board of Directors of the **Epilepsy Foundation of Arizona**. He has served on the Board of Directors since May 2010 and will serve as the organization's Chair following his two-year term as Vice Chair.