



BAR COMMUNITY

BOARD OF GOVERNORS MAY MEETING REVIEW

Below are highlights from the May 30, 2008, meeting of the State Bar Board of Governors. To see the complete minutes, go to www.myazbar.org/AZBarInfo/BOG/BoGMinutes.cfm.

► **President's Report**—President Dan McAuliffe reported that Andrew P. Thomas and the Maricopa County Attorney's Office have filed a special action against the State Bar requesting that the Supreme Court terminate several Bar complaints against them, or replace Bar Counsel and other Bar officials with a special master for the duration of the investigation.

Mr. McAuliffe then reported that a group of senior lawyers filed a comment with respect to the senior lawyers proposal R-07-0030.

► **Board of Governors Election Rules**—The board approved an amendment to its election rules that defines the process to follow in the event a candidate contests the election results.

► **Executive Director's Report**—Teresa Schmid updated the board on the subpoena project, MCLE pre-certification, and LRIS. Member response to the free legal research tool, Fastcase, has been extremely positive.

► **Legislative Report**—Janna Day reported that the governor signed SB 2806 and SB 2836 this week. The Uniform Arbitration Act will resurface next year. The 2009 state budget still has not been approved. There's likely to be a court filing increase, because there hasn't been one since 1992. Dave Byers announced that the elder law hotline is expected to be cut after September unless another entity steps forward to fund it. Attacks on the judiciary bills appear to be dead for this session.

► **Appointments Committee**—Alan Bayham reported that there were three applicants for one opening on the Client Protection Fund, and the com-

mittee recommends the appointment of Chas Wirken. The board approved.

► **ABA House of Delegates**—With two openings available on the House of Delegates, Alan Bayham submitted the Appointments Committee recommendation for one seat to be held by a non-board member, and the board voted to send the recommendation back to the committee for future consideration. The board elected Jimmie Smith for the remaining seat to be filled by a member of the Board of Governors.

► **Finance Committee/CFO Report**—Alan Bayham reported that the Finance Committee unanimously recommends an appropriation of not more than \$80,000 to rebuild the lobby stairs in the Phoenix office to bring them up to code. The board approved the expenditure. Chief Financial Officer Larry McVey reported that at the end of the first quarter the Bar assets remain strong at \$5.8 million. The Bar Operation YTD resulted in a loss of \$265,000 compared to a budgeted loss of \$430,000, resulting in a favorable variance of \$165,000.

► Mr. McVey then presented the 2008-2012 Financial Projection prepared by the Finance Committee.

► **Client Protection Fund**—On behalf of the Finance Committee, Larry McVey discussed the case for partial redirection of future Client Protection Fund assessments to Bar operations. He presented the financial history of the fund as well as projections with different scenarios. The committee recommends that in 2009, \$10 of the \$30 assessment would be redirected to Bar operations; in 2010, \$15 of the \$30 assessment; and in 2011 and later years, \$20 of the \$30 assess-

ment would be redirected. The recommendation will be voted on at the June meeting. If approved, it would be sent to the Supreme Court for its decision.

► The board decisions on the recommended changes were:

► Approved all of the non-monetary changes to the trust rules 1-12

► Approved the per claimant cap increase from \$75,000 to \$100,00

► Approved the per attorney cap increase from \$150,000 to \$250,000, but the increase will be staggered at \$50,000 per year for the next two years

► Approved a staggered increase in the attorney cap of \$50,000 per year over a two-year period

► Amended and then approved the provision for Trustee discretion to exceed caps. They approved the following language on exceeding caps: "that in extraordinary circumstances the caps can be exceeded by the unanimous vote of all Trustees and the approval of the Board of Governors."

► **Chief Bar Counsel Report**—Robert Van Wyck presented the 2007 Office of Lawyer Regulation Annual Report.

► **Preliminary Audit Report**—Mark Landy of Miller Allen & Co., P.C., presented the Independent Auditor's Report. In their opinion the financial statements present fairly, in all material respects, the financial position of the State Bar of Arizona at December 31, 2007, and 2006, and the changes in its net assets and its cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

► **Other News**

► President Dan McAuliffe

presented a gift from the Board to Governors to Brian A. Howie for his achievement of the highest score on the February 8, 2008, bar exam.

► **Meeting Schedule**—The next Board meeting will be held on June 17, 2008, at 2:00 p.m. at the Westin La Paloma Resort & Spa, Canon II Room, 3800 E. Sunrise, in Tucson. The full schedule is posted on the Bar's Web site: www.myazbar.org/AZBarInfo/BOG/BoardofGovernors.cfm

APRIL MEETING REVIEW

Below are highlights from the April 25, 2008, meeting of the State Bar Board of Governors.

► **President's Report**—President Dan McAuliffe reported that he attended ABA Day in Washington, D.C., and noted that there were three primary issues addressed: increased funding for the Legal Services Corporation; whether bankruptcy courts should be given the authority to rewrite mortgage contracts; and the Attorney-Client Privilege Act. He also noted that he hosted the third President's Web chat, the topic being Ethics in the Legal Profession.

President McAuliffe responded to a letter regarding the Arizona Civil Rights Initiative from Clint Bolick of the Goldwater Institute. His response stated that the board understood the implications of the *Keller v. State Bar* decision and was "satisfied that the actions which it was taking would comply with those restrictions."

► **Executive Director's Report**—Teresa Schmid announced that Fastcase was introduced on April 1, and the online subpoena project is still on track. The Supreme Court has approved the subpoena project in principle, pending details on the

technological report, and the pilot program could be launched in September. The State Bar and the Arizona Foundation for Legal Services & Education are co-sponsoring a joint anniversary celebration at Chase Field on May 15. All members are encouraged to purchase tickets.

► **Human Resources**

Committee—Ben Click reported that the committee would ask Colleen McManus to report on employee retention at an upcoming meeting. The committee will also bring a recommendation to the Board for changes to the executive compensation policy. Ed Novak reported that, based on the Supreme Court's ongoing review of the Lawyer Regulation Department, there may be recommendations forthcoming regarding additional Bar staff.

► **Legislative Report**—Janna Day reported SB 1192 (exemption from lawyer regulation) is now dead. HCR 2041 (discrimination) failed on the House floor. HB 2806 (Arizona Trust Code) is waiting for final negotiations with the Attorney General's office. HB 2845 (Uniform Arbitration Act) is waiting for the roll call vote in the House. HB 2836 (conservatorship bill) is waiting for some minor changes. The legislature is now working on the 2009 budget. The merit selection bill did pass the House Appropriations Committee last week and is still pending. The committee swept \$1 million from the APAC fund that small counties use to train prosecutors across the state.

► **In-House Counsel Proposal**—David Birk, Senior Vice President and General Counsel of Avnet, recounted the history leading to the proposal. The Association of Corporation Counsel authorized Mr. Birk to attend the March 25 Board meeting and concurs that Arizona is in the forefront of best practices for in-house registration. As global companies move attorneys to their Arizona corporate headquarters, this proposal will help in-house counsel to learn, to grow and to develop careers. The board amended Sections 3.d and 5 of the proposal to change the application fee to 75 percent of the dues

paid by active members in practice over three years, and amended Section 4 to require registration within 180 days for any attorney based in Arizona as of the effective date of the rule.

► **Awards Committee Report**—The board approved the recommendations of the committee, with one addition.

► **Discipline Oversight**

Committee—The board voted to send comments to the Supreme Court opposing a petition to amend ER 1.5 of the Arizona Rules of Professional Conduct. The board voted to submit a petition to the Supreme Court to amend ER 1.6, Rules of Professional Conduct, which would allow a lawyer to disclose information relating to the representation of a client to prevent reasonably certain death or substantial bodily harm.

► **Indian Law Section Petition**—

In May 2005, the State Bar Board of Governors voted to support the concept of an Indian Law question on the Arizona Bar Exam. Since that time the Indian Law Section has been researching and collecting data from other jurisdictions to address the issue. Having completed their research, James M. Stipe, chair-elect of the section, presented a petition amending Supreme Court Rule 35(b) to include Indian Law as one of the subject areas that may be tested on the State Bar of Arizona examination. Two important topics are recommended for inclusion: tribal jurisdiction and tribal governmental sovereign immunity. The board voted to file the petition.

► **Rule Committee Report**—Amelia Craig Cramer reported on three action items from the committee, and the board approved the committee's recommendations, and voted to take the following actions:

► File a Comment proposed by the Criminal Practice & Procedure Committee supporting and recommending minor amendments to petition R-08-007.

► File a petition to amend Rule 50, ARIZ. R. CIV. P., to bring the rule in line with Federal Rule. The proposed change would allow a Rule 50

motion to be made at any time and eliminate the requirement to renew the motion at the close of evidence.

► **Approve the Criminal Jury Instructions Committee's proposed Revised Criminal Jury Instructions.**

► **Appointments Committee**—Alan Bayham reported that 11 applications were received for the public member position on the Board. After interviewing the three finalists, the board appointed Emily R. Johnston.

► **Convention Tickets**—The board approved a motion to provide one complimentary ticket to each governor for ticketed events at the convention.

► **O'Connor House Project**—Joe Kanefield reported that the Finance Committee recommends that the Board approve a contribution of \$10,000 to the project. The board opted to contribute \$5,000.

► **Client Protection Fund**—John Balentine, Chair of the Client Protection Fund Board of Trustees, discussed the Client Protection Fund Declaration of Trust amendment and restatement. The board voted to table until the May meeting further discussion on raising the caps pending further information and clarification from the finance committee as to its recommendation. The board voted against a motion not to raise the caps.

► **CFO Report**—Chief Financial Officer Larry McVey reported that the Bar has net assets of \$5.8 million. The Bar Operation YTD, as of February 29, 2008, resulted in a loss of \$249,000 compared to a budgeted loss of \$428,000, resulting in a favorable variance of \$179,000.

► **CLE Credit for Arbitration**—The board voted to file a comment with the Supreme Court in opposition to petition R-08-0003 to amend Rule 45 of the Arizona Rules of the Supreme Court providing continuing legal education credit for members participating in the Court's Compulsory Arbitration program.

► **Chief Bar Counsel Report**—Robert Van Wyck reported that in March 2008, the State Bar

opened 203 new charges and closed out 162. Of the 162, 139 were informal charges. Of the 139 informal charges closed, 133 were completed within 330 days. The Bar, therefore, was at 96 percent compliance with the Supreme Court's goal of 330 days for informal charges. Ten formal cases (comprised of 23 charges) concluded by the end of March. Eight of those cases were closed within the 660 days. Therefore, the compliance rate was 80 percent. Staff is also completing the 2007 Annual Report.

► **Other News**

► Dec-Dec Samet encouraged all Board members to solicit donations for the Convention Silent Auction, and will provide a sample solicitation letter.

► To celebrate their 75th anniversaries, the State Bar and Pima County Bar Association are co-hosting a parking lot party on May 30 in the parking lot at McNamara, Goldsmith, Jackson & Macdonald, P.C.

► Art Lee, president of the Arizona Asian American Bar Association, thanked the Bar for its support of the association's awards banquet. The association raised \$10,000 for scholarships and awarded two \$4,000 scholarships to Arizona law students.

► Paige Martin, president of the Arizona Women Lawyers Association, thanked the Bar for its efforts to improve diversity, citing the recent article in *Arizona Attorney*, and praised the Bar's outreach efforts to the minority bars. AWLA continues to oppose the Men's Grill at Phoenix Country Club and appreciates the Bar's commitment not to sponsor events at that venue. AWLA's Maricopa Chapter hosts its Spring Swing golf event on April 26, 2008. Future events include monthly mid-career roundtables, the summer clerk party, and a Supreme Court tour. The Maricopa Chapter will host its Annual Wine and Cheese Party on October 30.

PROFESSIONAL VOLUNTEER OPPORTUNITIES

The State Bar Appointments Committee is currently accepting applications from *active members in good standing* to fill the following upcoming vacancies. Application forms are due at the State Bar office by **Friday, August 29, 2008**, and can be obtained by calling Carrie Sherman in the State Bar's Phoenix office at (602) 340-7201 or Amy Ihrke in the State Bar's Tucson office at (520) 623-9944. An application also can be downloaded from the Bar's Web site (www.myazbar.org – refer to *Appointment Committee News*).

The Standing Appointments Committee and the Board of Governors consider all aspects of diversity in their recommendations and appointments.

Arizona Supreme Court Committee on Character and Fitness

Application Deadline: Friday, Aug. 29, 2008

Purpose: The Committee members are responsible for the investigation and recommendation of applicants for admission to the practice of law in Arizona. Committee members review all applications, which total approximately 1,200 per year, and attend hearings for further investigation of applicants.

Openings: One appointment will be made by the Arizona Supreme Court to replace Tobin Rosen (Town of Oro Valley) who is completing his term and is ineligible for reappointment. The State Bar Board of Governors is asked to submit three nominations per opening to the Court for its ultimate selection.

The Committee members from Maricopa County are:

Troy P. Foster, Ford & Harrison LLP
David F. Gaona, Gaona Law Firm
Lee M. Holtry, Fender Musical Instruments Corp
Timothy R. Hyland, Kunz Plitt Hyland Demlong & Kleifield
John J. Tuchi, Office of the United States Attorney
Laura J. Zeman, Snell & Wilmer LLP

Public members J. Elliott Hibbs and Harold E. Holmes
The Committee members from Pima County are:
Richard E. Gordon, Office of the United States Attorney
Evelyn Rick, Munger Chadwick PLC
Viola Romero-Wright, Office of the Tucson City Attorney
Cary S. Sandman, Waterfall Economidis Caldwell Hanshaw & Villamana PC
Public members Wanda F. Moore and Dr. Ronald R. Watson

Candidate Criteria/Qualifications: Open to active members of, and in good standing with, the State Bar of Arizona. Experienced (5+ years) attorneys preferred. The Committee meets approximately three times a year and convenes 30 to 40 hearings a year with applicants. Meetings are usually held at the State Courts Building in Phoenix. Hearings are held at the same location and also throughout Arizona, depending upon the location of the Committee member(s).

Term: Seven years commencing October 2008

Arizona Supreme Court Committee on Examinations

Application Deadline: Friday, Aug. 29, 2008

Purpose: The Committee members direct the development of the state essay questions, review and revise the questions as necessary, oversee the content of the MBE and the MPRE, and attend the February and July exams. In addition, Examiners are responsible for the performance of the graders (12,000 essay answers per year) and for the formula and weighting of the components of the required Bar Examinations.

Openings: One appointment will be made by the Arizona Supreme Court to replace Kari Zangerle (Campbell Yost Clare & Norell PC, Phoenix) who is completing her term and is ineligible for reappointment. The State Bar Board of Governors is asked to submit three nominations per opening to the Court for its ultimate selection.

The Committee members from Maricopa County are:

Theodore Campagnolo, Office of the Attorney General
Anna M. Chavez, Office of the Governor
Terri L. Clarke, Office of the Maricopa County Attorney

James N. Drake, House of Representatives
David B. Earl, Jennings Strouss & Salmon PLC
Michael G. Galloway, Bancroft Susa & Galloway
K. Scott McCoy, Earl Curley & Lagarde PC
Jeffrey Messing, Poli & Ball PLC
Raymond K. Ramella, Gallagher & Kennedy PA
The Committee members from Pima County are:
Jeffrey T. Bergin, Lewis, Brisbois, Bisgaard and Smith LLP
Jeffrey A. Weinstein, Office of the Attorney General

Candidate Criteria/Qualifications: Open to active members of, and in good standing with, the State Bar of Arizona. Experienced attorneys (5+ years) preferred. The Committee meets approximately six times a year. Meetings are usually held at the State Courts Building in Phoenix.

Term: Seven years commencing October 2008

KEMP AKBAR



Wendy Kemp Akbar has joined the Commercial Litigation practice of **Quarles & Brady LLP**. She focuses her practice on intellectual property litigation.

WILLIAMS



David W. Williams has joined **Jennings Strouss & Salmon PLC** as an associate in the firm's litigation department.

KRUPSKI



Lewis and Roca LLP announced that **David P. Krupski** has joined the firm as an associate in its products liability group.

RADER



Deanna Rader joined **Fennemore Craig** as Of Counsel and concentrates her practice on school law.

Quarles and Brady LLP announced that three attorneys joined the firm: **Dale F. Regelman**

REGELMAN



KNAPP



JOHNSON



joined the Tucson office as a partner in the intellectual property practice. In Phoenix, **Cathy L. Knapp** joined the trusts and estates practice, and **Stanton E. Johnson** joined the real estate practice.

Paul L. Stoller joined **Gallagher & Kennedy PA** as a shareholder and practices in commercial litigation, securities fraud, intellectual property and insurance coverage.

STOLLER



KINGSLEY



Paul P. Kingsley joined **Dioguardi Flynn LLP** and practices in mergers and acquisitions, private equity, real estate and general corporate matters.

GRAFF



Benjamin W. Graff joined **Lazarus & Associates PC** as a land use and zoning attorney.

ESTRELLA



TURK



Shughart Thomson & Kilroy PC announced that construction law attorney **Cynthia R. Estrella** joined the firm as Of Counsel and that **Andrew B. Turk** joined as shareholder in the litigation practice.

Eric B. Hull joined the **Kercsmar Law Firm PC** as an associate practicing commercial litigation.

Shanks Leonhardt joined **Sanders & Parks PC** as an associate and practices commercial litigation and construction, education and entertainment law.

Amy L. Rasor joined the **Law Offices of Ronee Korbin Steiner PC** as Of Counsel.

Cameron Hall joined the employment law practice at **Little Mendelson** as an associate.

Five attorneys have joined the new office of **Holme Roberts & Owen LLP** in Phoenix: **Glenn S. Bacal**,

Robyn Nordin Stowell, **Christine Meis McAuliffe**, **Janet Betts** and **Joseph W. Kruchek**.

Jackson Lewis LLP announced that **Robert K. Jones** joined the firm as partner and continues to practice in labor and employment law.

John E. Phillips and **Joseph P. Goldstein** have formed **Phillips Goldstein PC** in Prescott. The firm focuses on real estate, probate, family law and litigation matters, and is located at 147 S. Marina Street, Prescott, AZ 86303.

The Phoenix office of **Wood Smith Henning & Berman LLP** has relocated to 3131 E. Camelback Rd., Suite 115, Phoenix, AZ 85016.

RECENTLY DECEASED

James Putman Bartlett, Scottsdale
Ferris W. Bellamak, Scottsdale
William D. Browning, Tucson
Robert John Chavez,
Rancho Palos Verdes, Calif.
August "Gus" Eckhardt, Tucson

People Item Submissions:

Members are invited to send items for the People column to arizona.attorney@azbar.org or to

Tim Eigo, Arizona Attorney,
4201 N. 24th St., Ste. 200,
Phoenix, AZ 85016.

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, we may use it, depending on that month's space and the photo quality (high-resolution required). If you need to guarantee when your item is published and how it appears, please contact **Kate Cortez** (Kate.Cortez@staff.azbar.org) about paid advertisement at member rates.