

MEETING OF THE
BOARD OF GOVERNORS
OF THE
STATE BAR OF ARIZONA

May 17, 2024

BOARD MEMBERS PRESENT: Benjamin Taylor, President, Phoenix; Ted Schmidt, President-Elect, Tucson; Sam Saks, Vice President, Tempe; Doreen McPaul, Secretary/Treasurer, Gilbert; Heather Baker-Mushkatel, Phoenix; Jena Decker-Xu, Phoenix; Denis Fitzgibbons, Casa Grande; Amy Hernandez, Tucson; David Johns, Flagstaff; Kelsi Taylor Lane, Phoenix; Leticia Marquez, Tucson; Robert McWhirter, Phoenix; Preston Pollock, Globe; David Rosenbaum, Phoenix; Christopher Russell, Sierra Vista; Jessica Sanchez, Board Advisor, Mesa; Elizabeth Schmitt, YLD President, Phoenix; Jimmie Smith, Yuma; Henry Whitmer, Prescott; Public Governors Robyn Austin, Tucson, Cedric Dave, Chandler, Mignonne Hollis, Sierra Vista, and Cortez Smith, Casa Grande; At-Large Governors, Mike Baumstark, Scottsdale and Dave Byers, Phoenix; Dean Stacy Leeds, Phoenix.

BOARD MEMBERS WITH EXCUSED ABSENCES: Diandra Benally, Fountain Hills; Dean Marc Miller, Tucson; John Moody, Phoenix.

STAFF: Deanna Commack, Executive Assistant; Joel England, CEO/Executive Director; Kelly Flood, Bar Counsel; Kelly Goldstein, Bar Counsel; Joe Hengemuehler, Chief Communications Officer; Craig Henley, Senior Bar Counsel; Jessica Iennarella, Chief Financial Officer; Steve Little, Chief Bar Counsel LOMAP; Darla Neill, Board Administrative Assistant; Lisa Panahi, General Counsel; Amy Rehm, Deputy Chief Bar Counsel; Patricia Seguin, Legal Services Manager; Carrie Sherman, Director of Board Operations; Stacy Shuman, Bar Counsel; Roberta Tepper, Chief Member Services Officer; Maret Vessella, Chief Bar Counsel.

GUESTS: Janna Day, Phoenix; Justice Kathryn King, Phoenix; Beverly Kosik (representing Dean Leeds), Phoenix; Hon. William Montgomery, Arizona Supreme Court Liaison, Phoenix; YLD President-Elect Christina Poletti, Phoenix; Eli Dalton-Webb, public member, Sierra Vista.

Call to Order – Benjamin Taylor

President Taylor called the meeting to order at 8:33 a.m.

Call to the Public – Benjamin Taylor

President Taylor made a Call to the Public, at which time Eli Dalton-Webb addressed the Board to voice frustration with the process of admitting licensed attorneys from other jurisdictions to practice in Arizona.

President's Report – Benjamin Taylor

- Access to Justice Committee Update
 - Selections have been made.
 - Letters are going out.
 - An app developed to provide services will be shared with schools and organizations.

- Advancement & Improvement Committee Update
 - Selections have been made.
 - Letters are going out.
 - Diverse group.
- Attended:
 - BLI Graduation where he spoke and presented certificates to graduates.
 - Reminded the Board that Jessica Sanchez and Doreen McPaul were BLI graduates.
 - 2050 Criminal Justice Services & Infrastructure Symposium with CEO Joel England and Dave Byers.
 - Two-day event to improve criminal justice regarding access to justice.
 - Spoke at the Rotary Club in Mesa where he was able to promote the Bar.
- Extended gratitude to law firms' managing partners for signing off on a response in opposition to the Goldwater Petition.

CEO/ED's Report – Joel England

- Reported that he had just received a text from CCO Joe Hengemuehler advising that the *Arizona Attorney Magazine* just won the Gold Azbee Award in the Feature Article category for *Brothers in Arms, In War and Peace* by James M. Marlar. The award is from the American Society of Business Publication Editors (ASBPE). Congratulations and applause ensued.
- Attended:
 - BLI Graduation. There are now 15-16 graduates ready to lead.
 - Court Law Day at ASU.
 - Comm. Sandra Bensley's investiture in Tucson where he thanked her for her positive impact on the Board.
 - 2050 Criminal Justice Services & Infrastructure Symposium.
 - Next week attending the Legal Desert Symposium with Dave Byers, Justice Timmer and other court representatives in Las Vegas.
- Regarding the response to the Goldwater Petition, thanked Lisa Panahi and Patricia Seguin for preparing it and publicly thanked the organizations that also commented in opposition to the Petition including Arizona Black Bar, Court's Access to Justice Commission, Los Abogados, Women Lawyers Association, Native American Bar Association, Past State Bar Presidents and many others.

Annual ARC Report Review – Maret Vessella

- Chief Bar Counsel Maret Vessella gave an overview regarding the background of the 2023 Report of the Attorney Regulation Advisory Committee which has been published. Summary presentations were given by:
 - Stacy Schuman regarding purposes of lawyer discipline, intake process and resolution of the intake charge. She indicated that main complaints from clients/consumers deal with communication and diligence.
 - Kelly Goldstein regarding the screening investigation and the Attorney Discipline Probable Cause Committee (ADPCC).

- Craig Henley regarding formal proceedings and appeals. He explained that the process is governed by Rules 47-60 of the ARC and is a hybrid of civil, administrative, and criminal law.
- Steve Little regarding diversion/probation programs and sanctions. He indicated that he is proud of the programs and said many organizations want to duplicate our LOMAP program.
- Ms. Vessella wrapped up the presentation with trends and takeaways and indicated that we are rebounding from the pandemic with charges increasing. She also read several positive comments to evidence that not all feedback is negative.

Gathering Volunteer Feedback and Demographic Data from Our Members After Being in the Discipline System – Benjamin Taylor

- Again urged for a process to be established for gathering demographics so that the Bar enough data to do a deeper dive.
 - Perhaps once a case is closed in the discipline system, parties can fill out a form regarding their experience, much like the survey in the JPR process.
 - Recommended President-Elect Ted Schmidt push this issue forward.
 - Staff suggested that the DSOC discuss how to gather statistics efficiently.

Trust Account Violations – Dave Byers

- At-Large Governor Byers led a discussion regarding overdrafts.
 - Report is not ready for the Board as more study is needed regarding the pros and cons of setting different reporting thresholds.
 - There are two Trust Account Examiners on staff who reconcile trust accounts.
 - Majority of issues are resolved quickly with an educational comment; more serious cases can be referred for mandatory attendance at the Bar's Trust Accounting seminar.

Discipline System Survey Update - Benjamin Taylor

- President Taylor advised that Dr. Shannon Portillo will present the final report to the DSOC on May 31st at 1:00 p.m. and invited the Board to attend the hybrid meeting. She will also give a presentation at the June 11 Annual Meeting.
 - Jessica Sanchez shared that years ago Los Abogados did not feel included but is now very supportive of the Bar. In fact, all affinity bars are now supportive.
 - We need to encourage all members to attend Dr. Portillo's presentation.
 - President-Elect Schmidt discussed need for implicit bias training and suggested we invite Tim Overton to provide it.
 - Discussion regarding when and how to share results of the survey:
 - Article, website, email; possible item for Retreat?
 - Action item for June.
 - Suggestion to segregate responses by category/type and put comments in context.
 - Dr. Portillo will put comments in perspective; wait on her presentation before discussing further.

Arizona Civil Legal Needs Advocate Survey - Joe Hengemuehler

<https://www.surveymonkey.com/r/AZLegalNeedsAdvocates>

- Presented a request to circulate a survey regarding civil legal needs in Arizona.
- Arizona Legal Steering Committee of the Arizona Bar Foundation (ALSC) is seeking input to increase their ability to meet the civil legal needs of Arizona's lower income residents.
- Information will be shared with the State Bar's new Access to Justice Committee as well.

MOTION by Cedric Dave moved, Jessica Sanchez seconded and the motion to approve the circulation of the survey passed unanimously.

Rules Review Committee - Leticia Marquez, Veronika Fabian

- Comment in support of Petition to Restyle and Revise Rules of Procedure for Special Actions, No. R-23-0055 with proposed modifications:
 - Rule 5(b)(2)
 - Rule 7(a)(2), (b) and (e)
 - Rule 7(g)
 - Rule 11(b)
 - Rule 17(c)

MOTION: Cedric Dave moved, Jessica Sanchez seconded and the motion to endorse the proposed Comments as presented carried unanimously.

Consent Agenda - Benjamin Taylor

- President Taylor asked if there were any matters that needed to be removed from the Consent Agenda and hearing nothing,

MOTION: Bob McWhirter moved, Cedric Dave seconded and the motion carried unanimously to approve the Consent Agenda:

- Approval of April 19, 2024 Board Meeting Minutes
- Approval of Resignations in Good Standing

Mark Harrison Memorial 10-Minute Topics - Bob McWhirter

- Mr. McWhirter gave a presentation entitled *What to Do About a Dead Candidate*.

Finance and Audit Committee - Doreen McPaul and Jessica Iennarella

- Operating surplus of \$100K relative to a budgeted deficit of \$323K. Investment activity for the first quarter is a surplus of \$469K. Total change in net assets for Q1 2024 is \$569K surplus.
- Revenues total \$4,951K through Q1 2024. Annual fee collections are materially in line with budget.
- Expenses total \$4,851K through Q1 2024. All expense categories (i.e. personnel, depreciation, operating) are within budget.
- Start projections after Q2 when Convention has occurred.

Nominating Committee Update - Jessica Sanchez

- The Committee has received expressions of interest from Board members who wish to be considered for an officer position.
- Candidates will be interviewed May 20.
- The Board will elect its officers at the June meeting.

Convention Update - Roberta Tepper

- 260 registrants to date; 70 for events only.
- Sending daily social media posts.
- Sent a blast email last Friday and will do so weekly.
- Sent CLE emails.
- Early bird registration expires today but will be extended until May 24th.
- Convention logo has been created to be included in social media, signs, etc.
- Features include entertainment, trivia, music, etc.
- Friday's keynote is attorney Ben Crump.
- Chief Justice Brutinel will swear in the 2024-2025 Board on Friday.

Legislative Update - Janna Day and Joe Hengemuehler

- No substantive changes since last month's update.
- There was a minor change to the "CLE bill", which the Governor has signed, and would become effective 91 days after the conclusion of the session.
- All other bills affecting the Bar are "dead."
- The only bill still pending is SCR 1044 and whether it will be placed on the ballot.
- Budget is the current focus but once approved sine die could occur quickly.

Future Board Events - Ted Schmidt

- Prescott - July 25 and 26 Retreat
 - RSVP forms will soon be sent.
 - Bob McWhirter will give a one-hour CLE on the Rule of Law.
 - Thursday's CLE and following reception to include Yavapai County Bar members.
- Tucson - December 5 and 6
 - Gratified to see that almost the full Board will attend the CLE, reception and Board meeting in person.

Correspondence/Reports

- April 2, 2024 Executive Council Minutes

Announcement

- Justice William Montgomery thanked the Board, indicating he enjoyed the opportunity to serve as the Court's liaison for the past two years. He added that he has been educated regarding what the Bar does and can now more effectively advocate for it.
- Introduced Justice Kathryn King who is the Court's new liaison to the Board.

ADJOURNED at 12:07 p.m.

Respectfully submitted,

Doreen N. McPaul
Secretary/Treasurer