

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

**Poco Diablo Resort
Sedona, Arizona**

July 21, 2023

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; Diandra Benally, Fountain Hills; Sandra Bensley, Tucson; Jena Decker-Xu, Phoenix; Denis Fitzgibbons, Casa Grande; David Johns, Flagstaff; Kelsi Lane, Tempe; Dean Stacy Leeds, Phoenix; Robert McWhirter, Phoenix; Preston Pollock, Globe; Jessica Sanchez, Board Advisor, Mesa; Christopher Russell, Sierra Vista; Public Governors Robyn Austin, Tucson, Cedric Dave, Chandler, Mignonne Hollis, Sierra Vista; At-Large Governors Mike Baumstark, Scottsdale, Dave Byers, Phoenix, and Doreen McPaul, Gilbert.

BOARD MEMBERS WITH EXCUSED ABSENCES: Leticia Marquez, Tucson; John Moody, Phoenix; Cortez Smith, Casa Grande; Jimmie Smith, Yuma; Elizabeth Schmitt, YLD President, Phoenix.

STAFF: Joel England, CEO/Executive Director; Kathy Gerhart, Chief Financial Officer; Joe Hengemuehler, Chief Communications Officer; Lori Maxwell, Chief Information Officer; Trish McCarty, HR Director; Darla Neill, Board Administrative Assistant; Lisa Panahi, General Counsel; Carrie Sherman, Director of Board Operations; Roberta Tepper, Chief Member Services Officer; Maret Vessella, Chief Bar Counsel; Chris Wyatt, Information Technology.

GUESTS: Victoria Ames, ASU College of Law; Leah Won, UA College of Law; District 2 candidates Eric English and Henry Whitmer; Dr. George Farkus, guest speaker.

Call to Order – Benjamin Taylor

President Taylor called the meeting to order at 12:23 p.m.

Call to the Public – Benjamin Taylor

President Taylor made a Call to the Public and hearing nothing, moved on to the next item on the agenda.

President's Report

- Interviewed by ABC TV, Horizon and others. He expressed thanks to Mr. Hengemuehler for arranging those interviews.
- Attended:
 - CLE by the Sea at the Hotel del Coronado in Coronado, California
 - State Bar of Texas' Annual Meeting in Austin, Texas

CEO/ED's Report – Joel England

- Thanked everyone for attending.
- Also attended CLE by the Sea at the Hotel del Coronado in Coronado, California.

California Lawyer Discipline Report

- Dr. Farkus, author of the above-referenced report, joined via Zoom to discuss his findings:
 - Minorities' complaints not given equal consideration by Bar;
 - Minorities given harsher penalties.
 - Such as study will take years.
- All Bars need to collect demographic information.
 - Consequences of insufficient data include inability to make comparisons based on race, ethnicity, whether attorneys were inactive or disbarred.
 - Investigations against attorneys representing themselves fared worse.
 - 98% solution in CA; Mr. England estimates 70% in AZ. (Darla, I'd confirm this with Lori Maxwell, but I thought I remembered her saying 70%)
- Dr. Farkus left the meeting. Much discussion among members ensued.
- It was suggested that the Bar should conduct its own study.
 - Need to talk to a statistician about the Bar's data.
 - How much will it cost?
 - How long will it take?
 - Not just race; also practice area, etc.
 - Any data in The Hub not in the LRO database – cross check
 - Identify the specific question, a reason for the study
 - Loop in the DSOC, PDJ, Court
 - Suggestion not to duplicate Dr. Farkus' study.

MOTION: David Rosenbaum moved to begin the process of conducting a Lawyer Discipline Study, including consulting with experts who would advise the Bar on the state of its data and what would be required to perform a statistical analysis. Seconded by Ted Schmidt.

AMENDMENT: Report back at the September Board meeting.

Discussion regarding staff performing this heavy lift and within the stated timeline.

AMENDMENT: Withdrawn

AMENDMENT: Establish a task force to work with staff on the project.

Discussion regarding utilizing the established Discipline System Oversight Committee, give it the charge and a deadline for a plan/proposal.

AMENDMENT ACCEPTED.

MOTION AS AMENDED: Carried unanimously.

CIO Lori Maxwell indicated that the Bar has tried to collect the data in the past but was unsuccessful. Mr. Byers stated that the Bar or the Court would need to compel the information; possibly on the admission application.

Appointments Committee - Ted Schmidt

Publicly thanked the Committee members and praised the hard-working group.

- State Bar of Governors District 2/Yavapai County
 - The two candidates recommended by the Committee, Eric English and Henry Whitmer, were interviewed separately by the Board.

MOTION: Robert McWhirter moved, David Rosenbaum seconded and the motion carried unanimously to appoint Henry Whitmer to the Board representing District.

- City of Avondale Judicial Advisory Board
 - The Governors are asked to forward three nominations to the Avondale City Council which makes the appointment. Avondale Court staff were informed that the Bar only received two applications and confirmed that the Bar should move forward with its process. The candidates: Ms. Ashley Fitzwilliams, Kurt M. Altman PLC, Phoenix and Ms. Alexis Keith, Snell & Wilmer, Laveen.

MOTION: David Rosenbaum moved, Jessica Sanchez seconded and the motion carried unanimously to send both names to the Avondale City Council for consideration.

- ABA House of Delegates – Young Lawyer
 - The Committee screened seven applications received to replace Judith Dávila, National Labor Relations Board, Maricopa County, whose term expires 8/23 and who is aged out as the Bar’s Young Lawyer representative. The Committee recommended the following slate of candidates for the Board’s consideration and ultimate appointment of one new ABA Young Lawyer Delegate:
 - Ms. Rachel Raynes, Cochise County Attorney’s Office, Bisbee - 4 votes
 - Ms. Jessica L. Scibelli, Gila County Attorney’s Office, Payson - 2 votes
 - Ms. Casi M. Harris, Yavapai County Attorney’s Office, Prescott - 1 vote

MOTION: Mignonne Hollis moved, David Rosenbaum seconded and the motion carried unanimously to accept the Committee’s recommendation and appoint Rachel Raynes as the new State Bar ABA Young Lawyer Delegate.

- ABA House of Delegates – Lawyer
 - Incumbent Lynda Shely is completing a two-year term and is eligible for reappointment. The Appointments Committee recommends the following slate of candidates for the Board’s consideration and ultimate appointment of one ABA lawyer Delegate:
 - Ms. Tiffany Tom, Pima County Attorney’s Office, Tucson 7 votes
 - Ms. Milagros Cisneros, Bryan Cave Phoenix 5 votes;
 - Ms. Lynda Shely, The Shely Firm PC, Scottsdale 5 votes
 - Ms. Jennifer Lee-Cota, Papetti Samuels Weiss McKirgan LLP, Scottsdale 1 vote.

MOTION: Cedric Dave moved, Mignonne Hollis seconded and the motion carried unanimously to appoint Tiffany Tom as the Bar’s ABA lawyer Delegate.

Ted Schmidt will reach out to Ms. Shely and explain the reasons why the Committee voted the way it did.

Approval of New/Amended Jury Instructions – Lisa Panahi

- Civil Jury Instructions

MOTION: Dave Byers moved, Bob McWhirter seconded and the motion to accept the Rules Review Committee’s recommendation to approve the new Invasion of Privacy Civil Jury Instruction carried unanimously.

- Criminal Jury Instructions

MOTION: Dave Byers moved, Mignonne Hollis seconded and the motion carried unanimously to accept the Rules Review Committee’s recommendation to approve the amended Criminal Jury Instructions.

Survey Request re: Remote Hearings – Joel England, Joe Hengemuehler

Judge Sam Thumma has asked the Board to approve his survey request regarding remote hearings.

MOTION: Robert McWhirter moved, Cedric Dave seconded and the motion carried unanimously to approve Judge Thumma’s survey request regarding remote hearings.

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: Robert McWhirter moved, Ted Schmidt seconded and the motion carried unanimously to approve the Consent Agenda:

- Approval of June 13, 2023 June Board Meeting Minutes
- Approval of Resignation in Good Standing
- Approval of Reinstatement of Member(s) Suspended for Non-Compliance with Annual Membership Fees and/or Trust Account Compliance (Rule 32(c)(10) and/or Rule 43, Ariz. R. Sup. Ct.)

INFORMATION

- Executive Council Minutes – July 10, 2023
- Thank You Letter from Barbara Atwood, Award of Special Merit Recipient
- 2023 Convention Wrap Up
 - Roberta Tepper reported the following information:
 - Total attendees: 914
 - Events only: 100
 - Senior Lawyer Breakfast: 135
 - First time attendee breakfasts: 167
 - Wednesday Networking Luncheon: 142

- Friday Awards Luncheon: 220
 - TECHTalks 6.0 (free plenary): 143
 - 52 seminars plus 7 vendor-sponsored seminars
- A full financial recap will be provided once all the numbers are in.

ADJOURNMENT – President Taylor adjourned the meeting at 1:48 p.m.

Respectfully submitted,

Doreen McPaul
Secretary/Treasurer