

**THE STATE BAR OF CALIFORNIA**

**MINUTES**

**BOARD OF GOVERNORS MEETING**

**OXNARD**

**JANUARY 23 - 25, 2003**

The Board of Governors of the State Bar of California convened in the Mandalay Ballroom A, Embassy Suites - Mandalay Beach, Mandalay Beach Road, Oxnard, California 93035, at 1:00 p.m. on Thursday, January 23, 2003, James E. Herman presiding.

The following members of the Board of Governors were present: Anthony P. Capozzi, Judith M. Copeland, Janet M. Green, James O. Heiting, Steven J. Ipsen, Vivian L. Kral, David M. Marcus, Roderick A. McLeod, Joel S. Miliband, Robert K. Persons, Russell Roeca, Windie O. Scott, Margaret P. Stevens, John K. Van de Kamp, Chantel L. Walker and Nancy Hoffmeier Zamora.

The following members of staff were present: Starr Babcock; Francis P. Bassios, Jerome Braun, Jann Dorothy, Larry Doyle, Francisco Gomez, Robert A. Hawley, Tricia Horan, Judy Johnson, Dean Kinley, Marie M. Moffat, Mike Nisperos, Victor Rowley, Janis Thibault and Pam Wilson.

Also present: Dena M. Cruz, Co-Vice Chair, and David A. Fink, and Paul A. Kramer, Co-Chairs, Council of State Bar Sections; and Curtis D. Parvin, Litigation Section's Executive Committee's Representative to the Council of State Bar Sections.

151 The President, who is also Chair, Task Force on Sections, and Ms. Copeland, Chair, Board Committee on Volunteer Involvement, introduced David A. Fink and Paul A. Kramer, Co-Chairs, Council of State Bar Sections.

Mr. Fink and Mr. Kramer addressed the Board on behalf of the State Bar Sections. Mr. Fink discussed the make up of the sections, the history of Sections and the membership. Mr. Fink and Mr. Kramer summarized the valuable work that the sections do and the services they provide to their members. Mr. Kramer stated that the sections would like to be given priority on some of their IT needs in order to provide more member services at a lower cost. Both Mr. Fink and Mr. Kramer requested that the Board not intervene in the sections allocation methodology decision until the sections have had an opportunity to work it out on their own. Mr. Herman thanked Mr. Fink and Mr. Kramer for their presentation.

131 The President introduced Starr Babcock, Special Assistant to the Executive Director, and Janis Thibault, Director, Lawyer's Assistance Program, who each, in turn, addressed the Board regarding the work of the LAP, and briefly summarized activities of the LAP during the 2002 calendar year. President Jim Herman thanked staff for the report.

The Board recessed at 2:00 p.m., Thursday, January 23, 2003, to meet again in the Mandalay Ballroom A, Embassy Suites - Mandalay Beach, Mandalay Beach Road, Oxnard, California 93035, at 4:45 p.m., Thursday, January 23, 2003.

The Board of Governors of the State Bar of California reconvened in the Mandalay Ballroom A, Embassy Suites - Mandalay Beach, Mandalay Beach Road, Oxnard, California 93035, at 4:45 p.m. on Thursday, January 23, 2003, James E. Herman presiding.

The following members of the Board of Governors were present: Anthony P. Capozzi, Judith M. Copeland, Janet M. Green, James O. Heiting, Steven J. Ipsen, Vivian L. Kral, Jr., David M. Marcus, Roderick A. McLeod, Joel S. Miliband, Robert K. Persons, Russell Roeca, Windie O. Scott, Margaret P. Stevens, John K. Van de Kamp, Chantel L. Walker and Nancy Hoffmeier Zamora.

The following members of staff were present: Starr Babcock; Francis P. Bassios, Jerome Braun, Jann Dorothy, Larry Doyle, Scott Drexel, Francisco Gomez, Robert A. Hawley, Judy Johnson, Dean Kinley, Marie M. Moffat, Mike Nisperos, Victor Rowley and Pam Wilson.

Also present: Union representatives: Barbara Field, President, Southern California Chapter, Service Employees International Union (SEIU) Local 535 AFL-C10/CLC; Robin Haffner, Attorney Unit Representative, Northern California Chapter Local SEIU; Susan Nye, Senior Field Representative, SEIU Local 535; and Alice Verstegen, union member.

10 Upon motion made, seconded and adopted, it was

**RESOLVED** that the minutes of the Board of Governors meeting held on December 7, 2002, in San Francisco, hereby are approved as written.

All members present voted yes on the above matter, except Ms. Walker who abstained and requested the record so to show.

30 The President announced that he had assigned Vivian L. Kral to the Board Committee on Member Oversight and the Task Force on Board Elections. He requested and received the Board's ratification on the appointments. He stated that he was deferring the appointment of Ms. Tucker to Board Committees and Task Force until a later date.

42 The Executive Director/Secretary reported briefly on the schedule for the 2003 Board of Governors Election, stating that five seats are up for election: Districts 1, 3, 5, 7 and 9. She mentioned also that the first day for furnishing nominating petitions is February 3; that April 1 is the last day for filing the petitions; that ballots will be mailed on April 30 and that June 30 is the last day for voting.

110 The President, who also chairs the Board Committee on Operations, reported on the January 21, 2003, meeting of the committee.

The roll-call vote was taken and upon motion made, seconded and unanimously adopted, it was

**RESOLVED** that the roll-call vote will be substituted for the vote unless otherwise noted.

All members present and recorded on the roll-call slip voted yes on the above matter.

111 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED** that the Board hereby sets May 17, 2003, as the date for the Special Meeting for the Election of the State Bar President for the Board year 2003-2004.

All members present and recorded on the roll-call slip voted yes on the above matter.

112 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED**, following a public comment period, and upon recommendation of the Board Committee on Operations, that the Board hereby amends the Conflict of Interest Code for Designated Employees of the State Bar of California, with the exception of the change to the disclosure levels for the Committee on Professional Liability Insurance and the Committee on Group Insurance Programs, in the form attached to these minutes and made a part hereof; and it is

**FURTHER RESOLVED**, pursuant to *Procedure for Adoption, Amendment or Repeal of State Bar Regulations*, sections 3 through 6, that the Board hereby directs the Board Committee on Operations to authorize staff to make the proposed revisions to the disclosure levels of the Committee on Professional Liability Insurance and the Committee on Group Insurance, contained in the Conflict of Interest Code for Designated Employees of the State Bar of California, in the form attached to these minutes and made a part hereof, available for an additional public comment period of 90 days; and it is

**FURTHER RESOLVED** that this authorization for public comment circulation shall not be construed as a statement of approval of the proposed revisions.

All members present and recorded on the roll-call slip voted yes on the above matter.

113 The President introduced Robert A. Hawley, Deputy Executive Director, who addressed the Board regarding the status of the MOU negotiations.

Mr. Hawley advised the Board that the parties participated in mediation on December 18, 2002, and were rescheduled to return to mediation January 31, 2003. At the conclusion of the December mediation session, the Union, through the mediator, requested the Board to reconsider its position and provide step increases in 2003, and a commitment to CalPERS health retiree coverage. He reviewed with the Board the budget information previously provided and confirmed that management was still recommending that the Board maintain a significant reserve in 2003 to cover potential deficit spending in 2004 and 2005 absent a membership fee increase. He reminded the Board that the budget and the 2004 fee bill process would be a point of discussion the following day commencing at 8:00 a.m. at which time the Board also would hear from Union representatives.

114 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED**, following public comment, and upon the recommendation of the Board Committee on Operations, that the Board of Governors hereby amends Article II and Article IIA of the Rules and Regulations of the State Bar of California regarding Board Elections, in the form attached to these minutes and made a part hereof, as Exhibits A, B and C, effective immediately.

All members present and recorded on the roll-call slip voted yes on the above matter.

Ms. Tucker entered the meeting and her name was added to the roll-call vote.

141 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED**, upon the recommendation of the Board Planning, Program Development, and Budget Committee, and consistent with existing State Bar practice and policy, that the Board hereby confirms that judicial officers are exempt from membership fee obligations of the State Bar during their continuance in full-time judicial office; and it is

**FURTHER RESOLVED** that judicial officers are defined for fee exemption purposes as judges and justices sworn to serve in California state courts of record established pursuant to the authority granted under Article VI of the California Constitution and judges and justices sworn to serve in United States federal courts of record established pursuant to the authority granted under Articles I and III of the United States Constitution; and it is

**FURTHER RESOLVED** that consistent with existing policy and practice magistrate judges, court commissioners, court referees and others who are appointed by state and federal courts of record to perform judicial functions are entitled to membership fee waivers during their continuance in full-time office; and it is

**FURTHER RESOLVED**, that consistent with existing policy and practice, administrative law judges and others who are not appointed by judicial officers and do not serve in the judicial branch of government are entitled to inactive member status, to the extent this is consistent with the terms of their non-judicial appointment and service.

All members present and recorded on the roll-call slip voted yes on the above matter.

142 Upon motion made, seconded and adopted, it was

**RESOLVED**, upon the recommendation of the Board Planning, Program Development, and Budget Committee, that the Board of Governors hereby receives and approves the State Bar of California's 2004 Advisory Committees' Workplans, in the form this day before the Board; and it is

**FURTHER RESOLVED** that the Board hereby directs the Board Committee on Operations to assign these workplans to the appropriate Board Oversight Committee.

Voting yes: Mr. Capozzi, Ms. Copeland, Ms. Green, Mr. Ipsen, Ms. Kral, Mr. Miliband, Mr. Persons, Mr. Roeca, Ms. Scott, Ms. Stevens, Ms. Tucker, Mr. Van de Kamp, Ms. Walker and Ms. Hoffmeier Zamora.

Voting no: Mr. Heiting, Mr. Marcus and Mr. McLeod.

Ms. Tucker left the meeting and her name was deleted from the roll-call vote.

161 There was no report from the Chief Legislative Counsel.

162 There were no immediate action items presented to the Board at this meeting.

163 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED**, upon recommendation of the Board Committee on Stakeholder Relations, that the Board hereby approves for inclusion in the Section Legislative Program for 2003 the legislative proposal of the Family Law Section designated at FL-8 [Spousal Duties: Clarify Non-Application of "Prudent Investor Rule"].

All members present and recorded on the roll-call slip voted yes on the above matter.

164 This item relating to Resolutions 4-08-02 [Duties of Attorneys: Allowing Disclosure of Confidential Information Regarding Client's Violent Criminal Acts], 4-09-02 [Confidentiality of Communication: Lawyer Referral Service], 7-01-02 [Judges: Converting Subordinate Judicial Officer Positions into Judgeships], and 7-05-02 [Civil Procedure: Definition of Hearing], as adopted by the Conference of Delegates of California Bar Associations, was tabled for further consideration in the future.

The Board recessed at 5:45 p.m., Thursday, January 23, 2003, to meet again at 8:00 a.m., Friday, January 24, in the Mandalay Ballroom A, Embassy Suites - Mandalay Beach, Mandalay Beach Road, Oxnard, California 93035.

The Board of Governors of the State Bar of California reconvened in the Mandalay Ballroom A, Embassy Suites - Mandalay Beach, Mandalay Beach Road, Oxnard, California 93035, at 8:00 a.m., Friday, January 24, 2003, James E. Herman presiding.

The following members of the Board of Governors were present: Anthony P. Capozzi, Judith M. Copeland, Janet M. Green, James O. Heiting, Steven J. Ipsen, Vivian L. Kral, Carl A. Lindstrom, Jr., David M. Marcus, Roderick A. McLeod, Joel S. Miliband, Robert K. Persons, Russell Roeca, Windie O. Scott, John G. Snetsinger, Margaret P. Stevens, John K. Van de Kamp, Chantel L. Walker and Nancy Hoffmeier Zamora.

The following members of staff were present: Starr Babcock; Francis P. Bassios, Jerome Braun, Jann Dorothy, Larry Doyle, Scott Drexel, Francisco Gomez, Robert A. Hawley, Judy Johnson, Dean Kinley, Marie M. Moffat, Mike Nisperos, Victor Rowley and Pam Wilson.

Also present: Union representatives: Barbara Field, President, Southern California Chapter, Service Employees International Union (SEIU) Local 535 AFL-C10/CLC; Robin Haffner,

Attorney Unit Representative, Northern California Chapter Local SEIU; Susan Nye, Senior Field Representative, SEIU Local 535; and Alice Verstegen, union member.

115 The Executive Director introduced the 2004-2005 fee bill process, stating that the matter would be discussed following the MOU presentations.

113 Mr. Hawley, Deputy Executive Director, again addressed the Board regarding the status of the union negotiations. He reminded the Board of the discussion the previous day, restated for them management's view that based upon current budget projections, if the Bar conserves all revenues including step and other salary increases in 2003 and after, the Bar will have sufficient funds to cover expenses in 2003 and 2004 without a member fee increase. The reserve would be exhausted in 2005. If management provided employees with step increases in 2003 and after, deficit spending would be incurred in 2005 and possibly in 2004. The only way to address serious deficit spending would be through layoffs which management would prefer to avoid if possible.

Mr. Hawley then introduced SEIU Senior Field Representative Susan Nye, who addressed the Board. Los Angeles Chapter President Barbara Field and San Francisco Attorney Bargaining Unit Representative Robin Haffner also addressed the Board. Susan Nye stated that SEIU was willing to make its political resources available to the State Bar to assist it in obtaining a fee bill increase for 2004 and after if the Board chose to pursue an increase. Barbara Field presented the Union's arguments in support of a step increase for 2003. Robin Haffner presented the Union's arguments in support of CalPERS Health employer-paid retiree health coverage. The President thanked the Union representatives for their presentations.

115 The President and the Executive Director addressed the various issues of the 2004-2005 fee bill process, including interaction with the legislature, and the matter was then discussed in depth by the Board.

A motion was made and seconded to limit the request for membership fees to \$395.

A motion to table the substantive motion on the floor was made and seconded. The motion to table failed.

The Board then voted on the substantive motion, which also failed.

A motion to prohibit to President and Executive Director from requesting membership fees in excess of \$395, without seeking further approval by the Board, was made and seconded. This motion failed.

The Board ultimately took the action recorded below on this item.

115 Upon motion made, seconded and adopted, it was

**RESOLVED** that the Board hereby authorizes the President and the Executive Director to exercise their discretion in their interaction with the legislature regarding the negotiation of the 2004-2005 fee bill.

All members present and recorded on the roll-call slip voted yes on the above matter.

The appointments were considered in confidential session and the action of the Board is reported below.

The roll-call vote was taken and upon motion made, seconded and unanimously adopted, it was

**RESOLVED** that the roll-call vote will be substituted for the vote unless otherwise noted.

All members present and recorded on the roll-call slip voted yes on the above matter.

6011 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED**, upon recommendation of the Board Committee on Volunteer Involvement, that the Board hereby appoints Joyce Pierson, San Francisco, member, Committee on Senior Lawyers, effective immediately, replacing Sharron Voorhees who resigned, for the remaining portion of Ms. Voorhee's term, i.e., close of the 2005 State Bar Annual Meeting, i.e, September 11, 2005, or until further order of the Board, whichever occurs earlier.

All members present and recorded on the roll-call slip voted yes on the above matter.

6012 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED**, upon recommendation of the Board Committee on Volunteer Involvement, that the Board hereby appoints Shirley L. Kovar, San Diego, member, Trusts and Estates Section Executive Committee, effective immediately, replacing James Chisholm, deceased, for the remaining portion of Mr. Chisholm's term, i.e., October 10, 2004, or until further order of the Board, whichever occurs earlier.

All members present and recorded on the roll-call slip voted yes on the above matter.

6013 Upon motion made, seconded and adopted, it was

**RESOLVED**, upon recommendation of the Board Committee on Volunteer Involvement, that the Board hereby appoints Kathleen A. Meehan, Fresno, member, Committee on the Delivery of Legal Services, effective immediately, replacing Lewis Hollman who resigned, for the remaining portion of Mr. Hollman's term, i.e., September 7, 2003, or until further order of the Board, whichever occurs earlier.

All members present and recorded on the roll-call slip voted yes on the above matter, except Mr. Miliband, who abstained and requested the record so to show.

6020 Upon motion made, seconded and adopted, it was

**RESOLVED**, upon recommendation of the Board Committee on Volunteer Involvement, that the Board hereby reappoints the following members to the Board of Directors, Foundation of the State Bar of California, each to serve for a two-year term commencing immediately, and expiring December 31, 2004, or until further order of the Board, whichever occurs earlier:

Nanci G. Clinch, Nevada City  
Hon. Lawrence W. Crispo, Los Angeles  
Pauline Gee, Sacramento  
JoAnn W. Grace, Los Angeles  
Karen S. Nobumoto, Los Angeles  
Barry R. Rosen, San Francisco  
Herbert M. Rosenthal, Millbrae  
Clara L. Slifkin, Los Angeles  
Richard W. Walker, Santa Monica  
Pauline A. Weaver, Fremont  
Scott Wylie, Costa Mesa

All members present and recorded on the roll-call slip voted yes on the above matter, except Mr. Marcus, who voted no and requested the record so to show.

The Board recessed at 8:30 a.m., Friday, January 24, 2003, to meet again at 8:30 a.m., Saturday, January 25, 2003, in the Mandalay Ballroom A, Embassy Suites - Mandalay Beach, Mandalay Beach Road, Oxnard, California 93035.

The Board of Governors of the State Bar of California reconvened in the Mandalay Ballroom A, Embassy Suites - Mandalay Beach, Mandalay Beach Road, Oxnard, California 93035, at 8:30 a.m., Saturday, January 25, 2003, James E. Herman presiding.

The following members of the Board of Governors were present: Anthony P. Capozzi, Judith M. Copeland, Janet M. Green, James O. Heiting, Steven J. Ipsen, Vivian L. Kral, Carl A. Lindstrom, Jr., David M. Marcus, Roderick A. McLeod, Joel S. Miliband, Robert K. Persons, Russell Roeca, Windie O. Scott, John G. Snetsinger, Margaret P. Stevens, John K. Van de Kamp, Chantel L. Walker and Nancy Hoffmeier Zamora.

The following members of staff were present: Starr Babcock; Francis P. Bassios, Jerome Braun, Jann Dorothy, Larry Doyle, Scott Drexel, Francisco Gomez, Robert A. Hawley, Judy Johnson, Dean Kinley, Marie M. Moffat, Mike Nisperos, Victor Rowley and Pam Wilson.

Also present: Herbert M. Rosenthal, President, and Pauline Gee, immediate Past President, Board of Directors, Foundation of the State Bar of California; Richard Walker, Chair, Foundations's Corporate Sponsorship Program; and Greer McVay, Program Director, Foundation of the State Bar; representing West Publishing were Heather Cameron, Vice President and General Manager, and Alison Spalding, Director of Marketing; FindLaw representatives were Cicely Wilson and Tim Stanley. Patti L. Paniccia, former CNN reporter, and adjunct professor, Pepperdine University School of Law; was in attendance for the Media and Public Relations Training.

The President introduced Dean Kinley, Director, Media & Information Services, Patti L. Paniccia, former CNN reporter, and Los Angeles radio personality Jack Popejoy. Mr. Kinley distributed a packet of media support materials to each Board member, and Ms. Paniccia and Mr. Popejoy conducted media training and enlisted Board members into holding a mock press conference.

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The President introduced Herbert M. Rosenthal, President, and Pauline Gee, immediate Past President, Board of Directors, Foundation of the State Bar of California, and Richard Walker, Chair, Foundations's Corporate Sponsorship Program

Mr. Rosenthal began by giving an overview of the Foundation, its history, programs and future goals. Following his presentation, Ms. Gee elaborated on some of the programs, emphasizing the Legal Heritage Institute and its success. The Institute, approved by the California Department of Education, provides high school juniors with an opportunity to participate in a one-week educational program, along with a chance to earn a partial college scholarship at the same time. Ms. Gee also discussed the potential for replicating the Institute throughout California.

Mr. Walker's portion of the presentation focused on the Corporate Sponsorship program, which he chairs. He outlined the Foundation's current sponsorship agreements and went on to discuss, in detail, the new agreement with West Publishing Company. This partnership also includes website development and maintenance by FindLaw. On hand to give a demonstration of the capabilities of the website for the Foundation and State Bar members were several representatives of both companies. The West Publishing representatives were Vice President and General Manager, Heather Cameron, and Director of Marketing, Alison Spalding. Cicely Wilson and Tim Stanley were from FindLaw.

After the demonstration, Pauline Gee summarized the benefits to members, including an expanded ability to research law and law-related cases, offers for discounts on merchandise and services from major corporations, including UPS, Chase, MBNA and more. The Foundation presentation was concluded with a ten-minute video highlighting the Legal Heritage Institute from the perspective of the students. Board members were enthusiastic about the programs presented and asked questions during the remainder of the time allotted. Mr. Herman thanked all for an impressive presentation.

The Board adjourned at 2:30 p.m., Saturday, January 25, 2003, in memory of Board member Vivian Kral's beloved father, Bohumil J. Kral, who recently passed away, Joe Remcho, Bar member, who died recently in a tragic accident, and Mary C. Dunlap, founding member of Equal Rights Advocacy, who also recently passed away

The Board may meet again at the call of the President at any time prior to the next regularly scheduled meeting of the Board or, if no such meeting be called, at the Westin Long Beach Hotel, 333 East Ocean Blvd., Long Beach, California, on Thursday, March 20, 2003.

Jan 112  
    Conflict of Interest Code for Designated Employees ..... -4-  
Jan 114  
    Article II and Article IIA of the Rules and Regulations ..... -5-