

**THE STATE BAR OF CALIFORNIA
MINUTES
BOARD OF GOVERNORS MEETING
SAN FRANCISCO, CALIFORNIA
SATURDAY, MAY 15, 2010**

The Board of Governors of The State Bar of California convened in open session in the Board Room of the State Bar offices at 180 Howard, San Francisco, California, 11:40 AM on Saturday, May 15, 2010, Howard B. Miller presiding.

The following members of the Board of Governors were present: James H. Aguirre, Lowell Carruth, Joseph L. Chairez, Angela J. Davis, George O. Davis, Jeannine English, William H. Gailey, Clark E. Gehlbach, William N. Hebert, Cheryl L. Hicks, Patrick Kelly, Paul A. Kramer, Jr., Micha Liberty, Wells Lyman, Michael D. Marcus, Gwen Moore, Richard A. Rubin, Jon Streeter, Michael A. Tenenbaum, and Patricia P. White.

The following members of staff were present: Starr Babcock, Resty Buenavidez, Diane Curtis, Randy Difuntorum, Francisco Gomez, Robert A. Hawley, Judy Johnson, Gayle Murphy, Nancy McCarthy, Cathy Torney, Russell Weiner, Colin Wong, and Larry Yee.

Also present: Jennifer Wada, the Bar's outside legislative consultant

Members of the Board of Governors, who attended at the Board Operations Committee meeting in anticipation of the Board meeting which was to follow, voted in the interest of time to end the remainder of the Board Operations Committee meeting and go directly into the Board meeting.

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.

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

RESOLVED, that the minutes of the regular meeting of the Board of Governors held on Saturday, May 15, 2010, in San Francisco, California, hereby are approved as written.

30 Mr. Miller, President reported that two Special Meetings of the Board would be scheduled. The first meeting, for the Chief Trial Counsel recruitment, will be in Los Angeles on June 5, 2010 at 11:00 AM. The second regarding the Executive Director recruitment, will be in Los Angeles on September 11, 2010, assuming schedules permit.

The President also explained the President-elect voting process and that there will be a candidates' question and answer session.

41/42 Ms. Johnson, Executive Director announced the candidates for 2010-11 President – William Hebert, Rex Heinke, Paul Kramer, Michael Marcus, and Patti White.

50 All items on the consent agenda were presented to the Board, and no objection being raised thereto, the following items on the consent agenda were deemed unanimously adopted.

51, 52, 53 51 - Financial Statement for the Quarter Ended March 31, 2010

RESOLVED, upon recommendation of the Board Planning, Program Development, & Budget Committee, that the Board hereby receives the financial statement for the quarter ended March 31, 2010, as certified by the Chief Financial Officer, and on file in the San Francisco office of the State Bar

52 - Investment Reports for the Quarters Ended December 31, 2009 and March 31, 2010

RESOLVED, upon recommendation of the Board Planning, Program Development, & Budget Committee, that the Board hereby receives the investment reports for the quarters ended December 31, 2009 and March 31, 2010, as certified by the Chief Financial Officer, and on file in the San Francisco office of the State Bar.

53 - Client Security Fund Reports for the Quarters Ended December 31, 2009 and March 31, 2010

RESOLVED, upon recommendation of the Board Planning, Program Development, & Budget Committee, that the Board hereby receives the Client Security Fund reports for the quarters ended December 31, 2009 & March 31, 2010, as certified by the Chief Financial Officer, and on file in the San Francisco office of the State Bar.

54-151 RESOLVED, upon recommendation of the Committee on Member Involvement, Relations and Services, that the Board of Governors hereby approves the fee adjustments for the following State Bar member(s) as noted below:

Jason H. Gorowitz: Contingent on payment of \$205 (one-half of 2010 membership fees) within 60 days of notice to member, waiver of remaining balance; total waiver of \$205.

54-152 RESOLVED, that upon the recommendation of the Board Committee on Member Involvement, Relations & Services, the Board approves an increase of 5% in the Term Premium Credit on State Bar sponsored individual term life policies.

54 -153 RESOLVED, that, upon recommendation of the Board Committee on Member Involvement, Relations and Services, the Board of Governors of The State Bar of California hereby approves the 23rd Annual Report of the California Board of Legal Specialization for the period January 1, 2009 through December 31, 2009, and directs that the report be transmitted to the California Supreme Court as required by section 21.0 of the Rules Governing the State Bar of California Program for Certifying Legal Specialists.

54-161 RESOLVED, that upon the recommendation of the Board Committee on Legal Services, Pro Bono and Equal Access, the Board hereby receives with thanks the Commission on Judicial Nominees Evaluation 2009 Activities and Statistical Report, and orders it filed.

54 - 162 WHEREAS more than 6 million Californians live below 125% of the federal poverty level and there are approximately 900 legal aid attorneys to serve them; and

WHEREAS the State Bar's Pro Bono Resolution adopted in December 1989 and amended in June 2002 strongly encourages all State Bar members to contribute at least 50 hours of pro bono legal services a year and to make a financial contribution to non-profit legal services organizations, and

WHEREAS California attorneys donate thousands of hours of pro bono legal services and make annual financial contributions to the Justice Gap Fund and directly to legal services organizations, to help address the huge unmet need for legal assistance to California's poor, especially in light of the current economic situation; and

WHEREAS the State Bar of California actively promotes pro bono participation in a variety of ways on an ongoing basis and gives special recognition annually for outstanding pro bono contributions made by its members; and

WHEREAS the American Bar Association has designated the last week of October in 2009 and 2010 as National Pro Bono Celebration Week to recognize the valuable pro bono contributions made by lawyers throughout the year, and to increase pro bono participation across the country to narrow the justice gap;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Governors of the State Bar of California recognizes the last week of October (or another week designated by the American Bar Association), as National Pro Bono Celebration week, commends California attorneys for their ongoing pro bono contributions, and reminds all members that by engaging in pro bono work and providing financial support they can make a significant difference in the lives of California's poor who would not otherwise have access to the legal system.

54 - 181 An electronic poll was conducted from April 28 - 29, 2010. A quorum of 15 votes has been achieved, and the Board adopted the following resolution.

RESOLVED, that the Board hereby receives and orders filed the Independent Auditor's Report for Years Ended December 31, 2009 and 2008, prepared by Macias Gini & O'Connell, in the form this day before the Board.

111 Upon motion made, seconded and adopted, it was

RESOLVED, that upon recommendation of the Board Committee on Operations, the Board of Governors hereby adopts amendments to State Bar Rule 6.30 and adopts new State Bar Rule 6.32, in the form attached, effective immediately.

Thirteen members present voted yes on the above matter (Carruth, Chairez, G. Davis, English, Gailey, Hebert, Hicks, Kelly, Kramer, Lyman, Marcus, Rubin, and White), six members present voted no (Aguirre, A. Davis, Gehlbach, Liberty, Streeter and Tenenbaum), one abstention (Moore), and recorded on a new roll-call slip on the above matter.

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

RESOLVED, that the Board of Governors, upon the recommendation of the Discipline Oversight Committee, hereby approves the proposed further revisions to the Notice of Your Rights After Arbitration in the form attached hereto as Attachment B, following their return from public comment.

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

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

RESOLVED, that the Board of Governors hereby approves the proposed revisions to the State Bar Guidelines and Minimum Standards for the Operation of Mandatory Fee Arbitration Programs, in the form attached hereto as Attachment A, following return from public comment.

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

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

RESOLVED, following publication for comment and consideration of comments received, that the Board of Governors of the State Bar of California hereby adopts the proposed new and amended Rules of Professional Conduct of the State Bar of California, in the form attached to these minutes and made a part hereof, and hereby directs that said rules be transmitted by staff to the Supreme Court with a request that it be approved by the Court; and it is

FURTHER RESOLVED, that the Board's adoption of the proposed rules is subject to consideration of possible revisions following a comprehensive public comment distribution of the entire body of proposed rules; and it is

FURTHER RESOLVED, that the Board directs staff to add these rules to the pending comprehensive public comment distribution of the entire body of the proposed rules in a timely manner that affords the public a minimum of 30-days before the comprehensive public comment deadline of June 15, 2010, and that staff revise the existing public comment notice to indicate that these rules have been added.

NOTE: For the Board Minutes, the Board's resolution will be accompanied by an attachment that includes the following rules recommended for adoption by the Commission: 1.0.1, 1.4.1, 1.10, 1.11, 1.17, 3.9, 4.4, 6.2, 6.5 and 8.2. The one proposed rule that was not adopted by the Board Committee was Rule 6.1 regarding voluntary pro bono service. The following rules were recommended by the Commission for rejection and the Board Committee approved that recommendation: 1.8.4, 1.8.9, 4.1 and 7.6.

Extra 131

Regarding proposed Rule 1.18, Rules of Professional Conduct, the Committee adopted the following resolution:

RESOLVED, that the Board Committee on Regulation and Admissions recommends that the Board of Governors of the State Bar of California adopt proposed Rule 1.18 of the Rules of Professional Conduct of the State Bar of California as recommended by a minority of the Commission for the Revision of the Rules of Professional Conduct (Dissent Alt. B) in the form attached to these minutes and made a part hereof, and hereby directs that said rules be transmitted by staff to the Supreme Court with a request that they be approved by the Court; and it is

FURTHER RESOLVED, that the Board's adoption of the proposed rules is subject to consideration of possible revisions following a comprehensive public comment distribution of the entire body of proposed rules.

FURTHER RESOLVED, that the Board directs staff to add these rules to the pending comprehensive public comment distribution of the entire body of the proposed rules in a timely manner that affords the public a minimum of 30-days before the comprehensive public comment deadline of June 15, 2010, and that staff revise the existing public comment notice to indicate that these rules have been added.

NOTE: In the interest of conserving resources, the attachment referenced above has not been reproduced here, but can be found at:
<http://www.calbar.ca.gov/AboutUs/PublicComment/201010.aspx>
This attachment includes Rule 1.18.

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

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

RESOLVED, that upon the recommendation of the Board Committee on Planning, Budget and Program Development, the Board of Governors authorizes staff to proceed with the contracts identified in the item before the Board this date, within the parameters set forth.

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

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

RESOLVED, that effective with the 2010-2011 Board year, upon the recommendation of the Board Planning, Program Development and Budget Committee the Board of Governors shall strive to schedule its regular meetings as 2-day meetings, beginning Thursday at Noon and ending on Friday afternoon. To the extent necessary to achieve this, committee meetings shall overlap. Items of widespread interest, however, shall be heard at times when meetings do not overlap to allow the participation of all interested persons. The annual Planning meeting shall remain a 3-day meeting held at the first regular Board meeting following the Annual Meeting (November).

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

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

RESOLVED, that upon the recommendation of the Board Planning, Program Development, and Budget Committee the Board of Governors amends Board Book, Tab 5 (Officers), Article 2, Section 1 (a) (b) in the form attached hereto.

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

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

RESOLVED, that upon the recommendation of the Planning Program Development and Budget Committee the Board of Governors adopts the following guidelines that will apply to any ad hoc committee, special committee, task force or other working group of the board outside of the structure of board standing committees (for brevity, each such ad hoc working group is referenced below as an "Ad Hoc Committee"):

1. Authorization for the creation of any Ad Hoc Committee must be sought and obtained by the President either from the board as a whole or from the board operations committee;
2. The authorization for any Ad Hoc Committee (i) must be based upon a written charge setting forth the task or tasks to be carried out, and (ii) must not include any task that is expressly delegated by the Board Book to any standing committee or to the board as a whole;
3. The President will retain full discretion to assign and make reassignments of the Chair and the membership of Ad Hoc Committees, provided that Governors are consulted in advance, prior to their assignment;
4. Written notice and an agenda of the meetings of any Ad Hoc Committee must be sent to all Governors;
5. Any Governor who is not a member of an Ad Hoc Committee must be permitted to attend Ad Hoc Committee meetings in person or by telephone as a non-voting participant; and
6. Each Ad Hoc Committee shall be deemed dissolved as of the next State Bar Annual Meeting following its authorization, unless the board re-authorizes it pursuant to this resolution; and it is

FURTHER RESOLVED, that should emergency circumstances or other unusual circumstances arise, the board may at any time suspend these guidelines upon the recommendation of the President.

RESOLVED, that upon the recommendation of the Board Planning, Program Development and Budget Committee the directs the Board Committee structure be comprised of five standing committees and a Board Operations Committee;

FURTHER RESOLVED, that the other committees may include the following, but should be differentiated with the understanding that the Board may continue to refine the structure as experience and need requires:

1. Planning, Program Development, and Budget Committee
2. Regulation, Admission and Discipline Oversight Committee
3. Member Oversight Committee / Volunteer Involvement Committee
4. Stakeholder Relations Committee / Legal Services Committee
5. Audit Committee

RESOLVED, that upon the recommendation of the Board Planning, Program Development, and Budget Committee the Board affirms the composition of the Board Operations Committee as described in its original charter adopted by the Board in May 2002 and reaffirmed by the Board in July 2009.

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

The Board went into closed session at 12:00 p.m. and those other persons present left the meeting.

The Board resumed open session at 12:20 p.m.

3151 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Committee on Member Involvement, Relations & Services that the Board hereby approves the selection of Beth Jay as the recipient of the 2010 Bernard E. Witkin Medal.

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

6010 The closed consent appointments agenda was presented to the Board, and no objection being raised thereto, the following items on the consent appointments agenda were deemed unanimously approved.

- 6011 RESOLVED, upon recommendation of the Board Committee on Member Involvement, Relations & Services, that the Board hereby reappoint Neil B. Martin, Los Angeles, to the Board of Directors of Legal Aid Foundation of Los Angeles for a three-year term commencing July 1, 2010, and expiring June 30, 2013, or until further order of the Board, whichever occurs earlier.
- 6012 RESOLVED, upon recommendation of the Board Committee on Member Involvement, Relations & Services, that the Board hereby reappoint Charles A. Murray, Villa Park, to the Board of Directors of Legal Aid Society of Orange County for a three-year term commencing August 1, 2010, and expiring July 31, 2013, or until further order of the Board, whichever occurs earlier.
- 6013 RESOLVED, upon recommendation of the Board Committee Member Involvement, Relations and Services, that the Board hereby appoints or reappoints, as the case may be, officers and members to the Section Executive Committees as set forth on the forms attached to the minutes and made a part hereof; effective at the close of the 2010 State Bar Annual Meeting (September 26, 2010), or as indicated; each officer and member to serve a term expiring as indicated, or until further order of the Board, whichever occurs earlier.

6021 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Committee on Member Involvement, Relations & Services, that the Board hereby appoints Edith Matthai, Los Angeles, State Bar member, Judicial Council, for a three-year term commencing September 15, 2010, and expiring September 14, 2013, 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.

6022 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Committee on Member Involvement, Relations and Services, that the Board hereby appoints or reappoints, as the case may be, officers and members to the standing committees and special boards, commissions and committees as set forth on the forms attached to the minutes and made a part hereof, effective at the close of the 2010 State Bar Annual Meeting, i.e., September 26, 2010, or as indicated; each officer and member to serve a term expiring as indicated, or until further order of the Board of Governors, whichever occurs earlier.

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

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 State Bar offices, 1149 South Hill Street, Los Angeles, CA 90015, on Saturday, July 24, 2010, at a time to be determined.