

**AGENDA ITEM - DRAFT**  
**JULY 10 - Board of Governors May 13, 2011 Minutes**

**THE STATE BAR OF CALIFORNIA**  
**MINUTES**

**BOARD OF GOVERNORS MEETING**

**SAN FRANCISCO, CALIFORNIA**

**FRIDAY, MAY 13, 2011**

The Board of Governors of The State Bar of California convened in open session in the 180 Howard Street, Board Room, San Francisco, CA 94105, at 1:55 p.m. on Friday, May 13, 2011, William N. Hebert presiding.

The following members of the Board of Governors were present: Lowell Carruth, Joseph Chairez, Alec Y. Chang, Laura N. Chick, Angela J. Davis, George O. Davis, Jeannine English, William H. Gailey, Clark Gehlbach, Karen M. Goodman, Cheryl L. Hicks, Patrick M. Kelly, Loren Kieve, Micha Star Liberty, Dennis Mangers, Gwen Moore, Luis J. Rodriguez, Jon B. Streeter, and Michael Tenenbaum.

The following members of staff were present: Starr Babcock, Resty Buenavidez, Joseph Dunn, Mary Flynn Lavery, Francisco Gomez, Robert A. Hawley, Gayle Murphy, Nancy McCarthy, Sonja Oehler, Cathy Torney, James Towery, Russell Weiner, and Colin Wong.

Also present for portions of the meeting: Jennifer Wada

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 Friday, March 4, 2011, in San Francisco, California, hereby are approved as written.

FURTHER RESOLVED, that the minutes of the special meeting of the Board of Governors held on Friday, April 8, 2011, in San Francisco, California, hereby are approved as written.

All members listed on the roll call slip voted yes.

30 Mr. Hebert, President, reported on his attendance at the Fifteenth Annual Statewide Ethics Symposium at the University of California, Irvine, which included a program on Electronic Communication and Professional Responsibility. Mr. Hebert also advised that he had attended the Los Angeles County Superior Court enrobing ceremony and concluded with a report on the Governance in the Public Interest Task Force, whose report was submitted to the Legislature and the California Supreme Court on May 12.

Mr. Hebert sought input from the Board regarding the format preferences for the presidential contest. Hearing no objections, the president advised that the question and answer format used last year would be used this year at the Friday, July 22 meeting. The Board was asked to submit its questions to Mr. Hebert.

41/42 Mr. Dunn informed that Board that he would periodically invite constituents to attend Board meetings. Mr. Dunn and our Jennifer Wada, the State Bar's Governmental Affairs representative, reported on bills of interest and the current legislative session.

Mr. Dunn announced that the candidates for president at the special meeting in July would be James Aguirre, Angela Davis, Jon Streeter and Michael Tenenbaum.

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.

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51 - Financial Statement for the Quarter Ended March 31, 2011

RESOLVED, that upon the recommendation of the Planning, Program Development and Budget Committee, the Board hereby receives the financial statement for the quarter ended March 31, 2011, as certified by the Chief Financial Officer, and on file in the San Francisco office of the State Bar.

52 - Investment Report for the Quarter Ended March 31, 2011

RESOLVED, that upon the recommendation of the Planning, Program Development and Budget Committee, the Board hereby receives the investment report for the quarter ended March 31, 2011, as certified by the Chief Financial Officer, and on file in the San Francisco office of the State Bar.

53 - Client Security Fund Report for the Quarter Ended March 31, 2011

RESOLVED, that upon the recommendation of the Planning, Program Development and Budget Committee, the Board hereby receives the Client Security Fund report for the quarter ended March 31, 2011, as certified by the Chief Financial Officer, and on file in the San Francisco office of the State Bar.

54-131 RESOLVED, pursuant to California Rule of Court 9.31 and the Rules of the State Bar, and upon recommendation of the Member Oversight Committee, that the Board of Governors hereby authorizes that those members of MCLE Compliance Group 3 who do not bring themselves into compliance with their MCLE requirement by June 30, 2011, shall be enrolled as inactive members of the State Bar of California and placed on "Not Eligible to Practice" status, effective July 1, 2011; and it is,

FURTHER RESOLVED, that the Board of Governors hereby authorizes staff to remove members from administrative inactive status once the member has provided proof of compliance and paid all noncompliance fees.

54-132 RESOLVED, that upon the recommendation of the Member Oversight Committee, the Board hereby approves the fee adjustments for the following State Bar member(s) as noted below:

Sarah deRoachemont (#121246): Upon payment of \$410 for the 2011 Active membership fees, waive member's 2009 and 2010 membership fees and penalties in the amount of \$1,120.

54-133

RESOLVED, that upon the recommendation of the Member Oversight Committee, the Board of Governors hereby ascertains and determines:

- (a) that each of the persons named in the list this day before the Board of Governors is a member of The State Bar of California;
- (b) that each such person has failed to fully pay fees, penalties or costs as established pursuant to the provision of sections 6086.10, 6140, 6140.3, 6140.35, 6140.5 (c), 6140.55, 6140.6, 6140.7, 6140.9 and 6141 of the Business and Professions Code;
- (c) that there has been sent to each such person, two months' written notice of his or her delinquency which included notice of section 6143;
- (d) that as shown by the records of the State Bar, the address of each such person is as set forth herein;
- (e) and hereby recommends to the Supreme Court of California that each such person be suspended from membership in the State Bar, and from the practice of law in the State of California, effective July 1, 2011, until such time as he or she may be reinstated, upon the payment of the delinquent fees, penalties or costs and of such additional fees, penalties or costs as may have accrued at the time of such payment, in the form attached to these minutes, and made a part hereof, and it is

FURTHER RESOLVED, that for the purpose of withdrawing the foregoing recommendation for suspension in particular cases, the Secretary or his designee is authorized and directed to strike from the foregoing list the name of any member of the State Bar who by proper remittance (e.g., credit card accepted by the State Bar, cash, cashier's check, money order, bank certified check, or wire transfer) and prior to the effective date of the Supreme Court of California order of suspension based hereon, pays to the State Bar fees, penalties or costs in the amount in which he or she is delinquent; and to notify the Clerk of the Supreme Court of California of the fact of such payment and of the consequent withdrawal of the Board of Governors' recommendation for suspension; and it is

FURTHER RESOLVED, that for the purpose of modifying the recommendation to the Supreme Court of California for suspension for nonpayment of fees, penalties or costs, the Secretary or his designee is authorized and directed to change the data as to status or the amounts of delinquency on said list and will forthwith notify the Clerk of the Supreme Court of California accordingly of the consequent modification of the Board of Governors' recommendation for suspension.

54-161

Commission on Judicial Nominees Evaluation Activities and Statistical Report for 2010 Submitted

54-181

On April 26, 2011, the President authorized the Secretary to poll the Board with regard to receipt of the Independent Auditor's Report for the Years Ended December 31, 2010 and 2009.

Pursuant to Business and Professions Code sections 6145 and 6222 (which are also contained in the State Bar Act), the State Bar is required to submit a copy of the audited financial statement within 120 days of the close of the fiscal year to the Board, the Chief Justice of the Supreme Court, and to the Assembly and Senate Committees on Judiciary.

The electronic poll was conducted from April 27 - 28, 2011.

A quorum of 14 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, 2010 and 2009, prepared by Macias Gini & O'Connell, in the form this day before the Board.

111

The below report of action was presented to the Board; this action was taken by the Board Committee on Operations, on behalf of the Board, between regularly scheduled Board meetings.

Consideration of ABA's Request for Approval by the State Bar of a Joint Letter by State Bars to Members of Congress in Support of Continued Funding of Legal Services Corporation, Report of Action taken March 28, 2011, by the Board Committee on Operations on Behalf of the Board Between Meetings

**RESOLVED**, that the Board Committee on Operations, acting on behalf of the Board of Governors between regular meetings, does not authorize its President to sign the letter joining with the American Bar Association and other state bar associations to support funding of the Legal Services Corporation.

All members, except Laura Chick, were present, and the vote was 4 to 3 in favor of the resolution with Joseph Chairez, Jon Streeter, and Joseph Dunn voting against it.

After the March 28, 2011 meeting of the Board Committee on Operations, twelve members of the Board of Governors called for a special meeting of the full Board under State Bar Rule 6.50(B) to consider the request and a revised letter of support (See Board April 8 Minutes of the Board of Governors).

121

Upon motion made, seconded and unanimously adopted, it was

RESOLVED, following publication for comment and no comments having been received, and upon recommendation of the Board Committee on Regulation, Admissions and Discipline Oversight, that the Board of Governors hereby approves the proposed amendments to Rule 9.21 of the California Rules of Court in the form attached in Attachment A and directs staff to transmit the proposal to the California Supreme Court with a request that the Court approve the amendments.

All members listed on the roll call slip voted yes.

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

RESOLVED, that upon the recommendation of the Board Committee on Regulation, Admissions & Discipline, the Board of Governors hereby approves the proposed policy set forth in Attachment A regarding 1) the online posting of a Consumer Alert and disclaimer on the member's State Bar profile page when a misappropriation of \$25,000 or more of client funds charge (as a single or total of charges) is filed in a notice of disciplinary charges or relied on in a Business & Professions Code section 6007(c) petition, until the State Bar Court files a decision or order; and 2) the online posting of a Business & Professions Code section 6007(c) petition which relies on major misappropriation charges, and any response, until the State Bar Court files a decision or order; and it is

FURTHER RESOLVED, that the aforementioned policy shall be applicable to all notice of disciplinary charges and Business & Professions Code section 6007(c) petitions filed in the State Bar Court on or after the effective date of this policy.

All members listed on the roll call slip voted yes.

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

RESOLVED, that upon the recommendation of the Regulation, Admissions and Discipline Oversight Committee, the Board of Governors hereby adopts the Chief Trial Counsel's evaluation process and criteria as set forth in this item; and it is

FURTHER RESOLVED, the Board's Policy Book at Tab 18 [Staffing], Article 2 [Chief Trial Counsel], Section 3(a) [Evaluation Criteria] be updated to reflect the evaluation criteria established with the action taken here.

All members listed on the roll call slip voted yes.

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

RESOLVED, that upon the recommendation of the Member Oversight Committee, the Board hereby approves the 23rd Annual Report of the California Board of Legal Specialization for the period January 1, 2010 through December 31, 2010, 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.

All members listed on the roll call slip voted yes.

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

RESOLVED, that upon the recommendation of the Board Committee on Planning, Program Development, and Budget, the Board of Governors hereby adds to the Schedule of Charges and Deadlines an Appendix A for Law Corporations, with a \$200.00 application fee for registration; a \$75.00 annual renewal of registration fee and a March 30 deadline for the annual renewal and fee; a \$110.00 penalty for late annual renewal and a May 3 deadline for renewal before the penalty attaches; and security for claims of errors and omissions in a required amount of \$50,000 per claim and \$100,000 per calendar year for each attorney practicing on behalf of the law corporation, to a maximum amount of \$500,000 per claim and \$5,000,000 per year; and it is

FURTHER RESOLVED upon the recommendation of the Planning, Program Development, and Budget Committee, the Board of Governors hereby adds to the Schedule of Charges and Deadlines an Appendix A for Limited Liability Partnerships, with an application fee for certification of \$100.00 for first two partners, plus \$50.00 per additional partner to a maximum of \$2,500.00; and an annual renewal of certification fee of \$75.00 for first two partners, plus \$25.00 per additional partner to a maximum of \$2,500.00 and an October 1 deadline for the annual renewal.

All members listed on the roll call slip voted yes.

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

RESOLVED, that the Board of Governors of the State Bar of California believes there is a need for a more technologically sophisticated statewide court case management system that moves the judicial branch further towards ensuring equal access to justice for all Californians, regardless of their county of residence; and it is

FURTHER RESOLVED, that such a statewide court case management system provides far-reaching impacts that will make California's entire justice system more effective by: transforming trial courts' paper-based processes to an electronic environment where interactions occur much more rapidly, thereby improving the way the courts perform their day-to-day business; providing judges with critical, up-to-date information as they are hearing cases and making decisions; providing timely information to justice system partners; vastly improving public access to information and bringing such accessibility into conformity with modern technology and modern-day public expectations; saving critical resources for the courts, attorneys and court users across the state; and it is

FURTHER RESOLVED, a court case management system should be deployed statewide as soon as practicable in order to maximize the efficiencies of a statewide justice system.

All members listed on the roll call slip voted yes.

The Board went into closed session at 2:37 p.m. and those other persons present left the meeting.

The Board resumed open session at 2:43 p.m.

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**, that upon the recommendation of the Volunteer Involvement Committee, the Board hereby appoints the following candidates to the State Bar Fee Arbitration Department, each for a term commencing May 13, 2011 and expiring December 31, 2011, or until further order of the Board, whichever occurs earlier:

<u>Name</u>	<u>County</u>	<u>Bar Number or Layperson</u>
Julie Azevedo	Alameda	151618
Michelle Duval	Alameda	239497
Alexander Escandari	Los Angeles	183781
Roy Malahowski	Kern	69150
Paul Trudell	Alameda	38876
Anne Whatley	Contra Costa	189646

6012 **RESOLVED**, upon recommendation of the Volunteer Involvement Committee, that the Board hereby reappoints the following officers and members to the Legal Services of Northern California Board of Directors: Kevin Johnson, President (Yolo); Jane Kroesche, Vice President (Redwood); and Patrick Sweeney, Executive Committee officer (Solano); and Martin Carr, member (Sacramento), Christine Carringer, member (Solano), Jeffrey Galvin, member (Sacramento), and Michael Morrison, member (Redwood); each for a three-year term commencing June 1, 2011 and expiring May 31, 2014, or until further order of the board, whichever occurs earlier; and it is

**FURTHER RESOLVED**, upon recommendation of the Volunteer Involvement Committee, that the Board hereby appoints Steven M. Gevercer, member (Sacramento), Legal Services of Northern California Board of Directors, for a three-year term commencing June 1, 2011, and expiring May 31, 2014, or until further order of the board, whichever occurs earlier.

6013 **RESOLVED**, that upon the recommendation of the Volunteer Involvement Committee, the Board hereby appoints or reappoints, as the case may be, officers and members of 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 2011 State Bar Annual Meeting (September 18, 2011), 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, that upon the recommendation of the Volunteer Involvement Committee, the Board hereby appoints or reappoints, as the case may be, the officers and members of the standing and special committees, as set forth on the forms attached to the minutes and made a part hereof; effective at the close of the 2011 State Bar Annual Meeting (September 18, 2011), or as indicated; each officer and member to serve a term expiring as indicated, or until further order of the board, whichever occurs earlier.

All members listed on the roll call slip voted yes.

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, 180 Howard Street, San Francisco, CA 94105, on Friday, July 22, 2011 at a time to be determined.