

AGENDA ITEM

JANUARY 10 - Board of Governors November 19, 2010 Minutes

**THE STATE BAR OF CALIFORNIA
MINUTES**

BOARD OF GOVERNORS MEETING

SAN FRANCISCO, CALIFORNIA

FRIDAY, NOVEMBER 19, 2010

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, and 4:15 p.m. on Friday, November 19, 2010, William N. Hebert presiding.

The following members of the Board of Governors were present: James H. Aguirre, Lowell Carruth, Joseph L. Chairez, Alec Y. Chang, Angela J. Davis, Jeannine English, William H. Gailey, Karen M. Goodman, Cheryl L. Hicks, Patrick Kelly, Loren Kieve, Micha Liberty, Wells Lyman, Dennis Mangers, Gwen Moore, Gretchen M. Nelson, Luis J. Rodriguez, Jon Streeter, and Michael A. Tenenbaum.

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

Also present for portions of the meeting: Jennifer Wada, the Bar's outside legislative consultant; Anthony Williams, Special Counsel to Sen. Darrell Steinberg; and former public member, Richard Rubin.

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 adopted, it was

RESOLVED, that the minutes of the special meeting of the Board of Governors held on Saturday, May 15, 2010, in Los Angeles, California, hereby are approved as written; and it is

FURTHER RESOLVED, that the minutes of the regular meeting of the Board of Governors held on Saturday, July 24, 2010, in Los Angeles, California, hereby are approved as written; and it is

FURTHER RESOLVED, that the minutes of the regular meeting of the Board of Governors held on Wednesday, September 22, 2010, in Monterey, California, hereby are approved as written.

All members listed on the roll call slip voted yes except the following members who abstained: Alec Chang, Karen Goodman, Loren Kieve, Gretchen Nelson, Luis Rodriguez, and Michael Tenenbaum.

- 30 Mr. Hebert, President thanked Anthony Williams for presenting a legislative proclamation to former public member Richard Rubin. Mr. Hebert advised the Board of the passing of Mr. Ghelbach's mother and that flowers had been sent on the behalf of the Board.

The following items were noted and affirmed by the Board.

- 30-1 RESOLVED, that the Board of Governors ratifies the appointment of Board of Governors member, Luis Rodriguez, as liaison to the California Law Academy Strategic Task Force, effective September 29, 2010.
- 30-2 RESOLVED, that the Board hereby ratifies the President's appointment of Luis J. Rodriguez, to the RJNE, which was effective September 26, 2010, and expiring at the close of the member's liaison term on the JNE Commission, or until further order of the board, whichever occurs earlier.

Mr. Rodriguez abstained on items 30-1 & 30-2.

- 41/42 Ms. Johnson, Executive Director, did not report in the interest of time.

The Board went into closed session at 3:40 p.m. and those other persons present left the meeting.

The Board resumed open session at 4:15 p.m.

- 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

RESOLVED, upon recommendation of the Board Operations Committee, that the Board hereby receives the financial statement for the quarter ended September 30, 2010, as certified by the Chief Financial Officer, and on file in the San Francisco office of the State Bar.

RESOLVED, upon recommendation of the Board Operations Committee, that the Board hereby receives the investment report for the quarter ended September 30, 2010, as certified by the Chief Financial Officer, and on file in the San Francisco office of the State Bar.

RESOLVED, upon recommendation of the Board Operations Committee, that the Board hereby receives the Client Security Fund report for the quarter ended September 30, 2010, as certified by the Chief Financial Officer, and on file in the San Francisco office of the State Bar.

54-121

RESOLVED, upon recommendation from the Board Committee on Regulation, Admissions and Discipline Oversight, that the Board of Governors hereby approves the proposed revised Rule 9.30 of the California Rules of Court regarding the registration of unaccredited law schools in the form attached hereto, which would replace the current Rule 9.30, for transmittal to the Supreme Court with a request that it be adopted.

54-131

RESOLVED, upon recommendation from the Board Committee on Member Oversight, that the Board of Governors hereby approves the proposed amendments to the Standards for Certification and Recertification in Immigration Law, in the form attached hereto, effective immediately following action by the Board.

54-133

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

David Warner: Waive 2010 Inactive membership fees and issue member a refund in the amount of \$125.

Chelsie Adams: Waive 2010 Inactive membership fees and issue member a refund in the amount of \$125.

112-A

Upon motion made, seconded and adopted, it was

RESOLVED, that upon recommendation of the Board Committee on Operations, the Board of Governors hereby adopts the amendment to State Bar Rule 7.8, in the form attached.

The roll-call slip was substituted for the vote.

112-B

Upon motion made, seconded and adopted, it was

RESOLVED, that upon recommendation of the Board Committee on Operations, the Board of Governors hereby adopts new State Bar Rules 7.22, 7.65, and 7.66, in the form attached, effective immediately; and it is

FURTHER RESOLVED, that upon recommendation of the Board Committee on Operations, the Board of Governors directs staff to prepare and submit appropriate legislative amendments to section 12011.5(c) to add an additional rating of “not qualified at this time.

The roll-call slip was substituted for the vote.

112-C Upon motion made, seconded and adopted, it was

RESOLVED, that upon recommendation of the Board Committee on Operations, the Board of Governors hereby adopts the amendment to State Bar Rule 6.9, in the form attached, retroactive to April 10, 2010.

The roll-call slip was substituted for the vote.

112-D Upon motion made, seconded and adopted, it was

RESOLVED, that the Board of Governors upon recommendation of the Board Committee on Operations hereby amends the Pursuit Policy for Court-Ordered Discipline Costs and CSF Obligations in the form attached hereto.

The roll-call slip was substituted for the vote.

112-E Upon motion made, seconded and adopted, it was

RESOLVED, that upon recommendation of the Board Committee on Operations, the Board of Governors hereby delegates authority to review and deny claims against the State Bar that are clearly without legal merit to a claims officer appointed by the Executive Director; and it is

FURTHER RESOLVED, that claims involving issues of significant political or operational importance to the State Bar must be submitted to the Board for disposition; and it is

FURTHER RESOLVED, that the claims officer will promptly report all claims rejected under this delegation to the Board of Governors; and it is

FURTHER RESOLVED, that the claims officer will provide regular reports to the Board of Governors regarding the status of pending claims against the State Bar.

The roll-call slip was substituted for the vote.

112-F This item was withdrawn from the agenda.

112-G Upon motion made, seconded and adopted, it was

RESOLVED, upon recommendation from the Board Committee on Operations, that the Board of Governors hereby adopts the amended Committee of Bar Examiners' Refund Policy, in the form attached hereto, effective immediately following this action of the Board.

The roll-call slip was substituted for the vote.

112-H Upon motion made, seconded and adopted, it was

RESOLVED, upon the recommendation of the Board Committee on Operations, the Board of Governors allocates \$77,500 to reimburse local bar associations with approved fee arbitration programs the sum of \$50 for each matter in which a mediator or arbitrator is assigned effective January 1, 2011.

The roll-call slip was substituted for the vote.

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

RESOLVED, that upon the recommendation of the Board Operations Committee, the Board of Governors authorizes staff to proceed with the addendum to the Rules Revision Commission Consultant agreement identified in the item before the committee this date, within the parameters set forth.

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

112-J Report of Action Taken by E-Mail Poll on August 10, 2010, by the Board Committee on Operations, on Behalf of the Board of Governors Between Meetings

RESOLVED, that the Board Committee on Operations, acting on behalf of the Board of Governors between meetings, hereby authorizes the Legal Services Trust Fund Commission to prepare and provide written comments and testimony, which are consistent with existing State Bar policies on the expansion of low- and no-cost legal services to low- and moderate-income Californians, in response to the requests for public comment of the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision for the updating of regulations for assessing a financial institution's performance under the Community Reinvestment Act.

Six members responded and voted unanimously to adopt the above resolution. English, White, G. Davis, Hebert, Heinke and Kramer all responded to the poll and voted yes.

112-K Report of Action Taken by conference call on September 2, 2010, by the Board Committee on Operations, on Behalf of the Board of Governors Between Meetings

RESOLVED, that the Board Committee on Operations, acting on behalf of the Board of Governors between regular meetings, hereby adopts on an interim basis the proposed revisions to State Bar Rule 7.8 in the form attached; and it is

FURTHER RESOLVED, that the Board Committee on Operations hereby authorizes staff to make available for public comment for a period of 45 days the revisions to State Bar Rule 7.8 in the form attached.

A quorum was reached and the Board Committee voted unanimously to adopt the above resolution. All members except for Gailey and Hebert were in attendance, and all members attending, voted yes.

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

RESOLVED, that upon the recommendation of the Board Committee on Operations, the Board hereby approves the adoption of the 2011 State Bar Budget in the form attached as Attachment B.

RESOLVED, that upon recommendation of the Board Operations Committee, the Board hereby approves the adjustments in Legal Specialization fees, in the form attached as Attachment E.

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

112-M The item was considered by the board and no action was taken.

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

WHEREAS, representatives of the State Bar of California ("State Bar") and Service Employees International Union (SEIU) Local 1000, operating under a Service Agreement with SEIU Local 535 ("Union"), met and conferred pursuant to California Government Code sections 3505 and 3505.1 and the State Bar's Rules & Regulations for the Administration of Employer-Employee Relations, with a view to reaching agreement on amendments to the Memoranda of Understanding (MOU) for the General Bargaining Unit pertaining to overtime for the Investigator Classifications; and

WHEREAS, the Union and State Bar bargaining teams have met in good faith and reached tentative agreement on MOU amendments on this subject; and

WHEREAS, the Union is presenting the tentative agreement to its membership with a recommendation that it be ratified; and

WHEREAS, the State Bar's Rules and Regulations for the Administration of Employer-Employee Relations provide at Sections 6.8 and 6.9 that proposed MOU terms and amendments be submitted to the Board of Governors for ratification; now therefore, it is

RESOLVED that, upon the recommendation of the Board Operations Committee, the Board of Governors ratifies the proposed Memoranda of Understanding amendments for the General Bargaining Unit in the form discussed this date to be effective upon full ratification by both the Board and the Union; and it is

FURTHER RESOLVED that the Board's action here is contingent upon the Union fully ratifying the tentative agreement in the same form as presented here. The Board action here does not become effective until the Union confirms full ratification of the tentative agreement as set forth here. If, for any reason, Union ratification does not occur, the action of the Board here is voided. The Board further reserves the right to withdraw this action at any time prior to Union ratification; and it is

FURTHER RESOLVED that the Office of General Counsel and the Office of the Executive Director take the appropriate steps to effectuate these amendments.

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

122

Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that upon the recommendation of the Regulation Admissions & Discipline Committee, the Board of Governors hereby approves the proposed revisions to the State Bar Sample Fee Agreement Forms, in the form attached hereto as Attachment B;

FURTHER RESOLVED, that the Board directs staff to provide a report on additional disclosure requirements related to the opting for arbitration.

All members present and recorded on the roll-call slip voted yes on the above matter except for Micha Liberty and Gwen Moore who voted no.

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

RESOLVED, that upon the recommendation of Member Oversight Committee (MOC) and the Standing Committee on Group Insurance Programs (COGIP), the Board of Governors approve the proposed extension to the Accidental Death & Dismemberment Insurance Production and Administrative Agreement (State Bar AD&D Program) and directs staff to execute the agreement.

All members present and recorded on the roll-call slip voted yes on the above matter except Michael Tenenbaum who voted no and Jeannine English who did not vote.

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

RESOLVED, that upon the recommendation of Member Oversight Committee (MOC), and the Standing Committee on Group Insurance Programs (COGIP), the Board of Governors approve the proposed extension to the Property and Casualty (Auto/Homeowner's) Insurance Production and Administrative Agreement (State Bar Auto/Homeowners Program) and directs staff to execute the agreement.

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

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

RESOLVED that, upon recommendation of the Board Committee on Stakeholder Relations, the Board of Governors hereby approves the following legislative proposals for inclusion in the 2011 Section Legislative Program: BLS-2011-01, BLS-2011-02, BLS-2011-03, BLS-2011-04, BLS-2011-05 (as modified, without the proposed amendment to Code of Civil Procedure § 708.510), BLS-2011-06, T&E-2011-07, T&E-2011-08, T&E-2011-09, T&E-2011-10, T&E-2011-11.

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

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

RESOLVED, that the Board affirms that all regularly scheduled meetings of the Board be held as listed on the attached meeting schedule.

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

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

RESOLVED, that upon the recommendation of the Board Operations Committee, the Board of Governors authorizes staff to proceed with the contract 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.

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

RESOLVED, that the Board of Governors approves the contract terms between the Board of Governors and the State Bar Executive Director in the form before it this date; and it is

FURTHER RESOLVED, that the terms of the agreement shall be reflected in a contract document consistent with the terms discussed this date to be executed by Joseph Dunn and State Bar President William Hebert; and it is

FURTHER RESOLVED, that William Hebert, as State Bar President is authorized by the Board to execute the contract with the Executive Director as approved here to be effective as set forth.

All members present and recorded on the roll-call slip voted yes on the above matter except for Lowell Carruth and Karen Goodman who voted no and Michael Tenenbaum who abstained.

The Board went into closed session at 5:10 p.m. and those other persons present left the meeting.

The Board resumed open session at 5:20 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, upon the recommendation of the Board Committee on Volunteer Involvement, that the Board hereby reappoints the fee arbitrators whose names appear on the list attached hereto as Attachment A to the State Bar Fee Arbitration Department, each for a one-year term commencing January 1, 2011 and expiring December 31, 2011; and it is

FURTHER RESOLVED, that the Board appoints the applicants whose names appear on the list attached hereto as Attachment B to the State Bar Fee Arbitration Department, each for a term commencing November 19, 2010, and expiring December 31, 2011; and it is

FURTHER RESOLVED, that the Board reappoints Joel Mark, Oxnard, Presiding Arbitrator, for a term effective January 1, 2011, and expiring December 31, 2011.

6012 RESOLVED, upon recommendation of the Board Committee on Volunteer Involvement, that the Board hereby appoints Hon. Ronald B. Robie, Sacramento, Chair, California Commission on Access to Justice, effective January 1, 2011, and expiring December 31, 2011, or until further order of the Board, whichever occurs earlier.

6013 RESOLVED, upon recommendation from the Board Committee on Volunteer Involvement, that the Board hereby appoints the officers and members, as indicated below, to the Privacy Law Consulting Group, effective immediately, each to serve thereon until further order of the Board:

<u>Co-Chairs</u>	<u>City</u>	<u>District</u>
Andrew B. Serwin	San Diego	9
J. Anthony Vittal Los Angeles	7	
<u>Members</u>	<u>City</u>	<u>District</u>
Jonathan D. AvilaBurbank	7	
Ian C. Ballon Santa Monica	7	
Alisa M. Bergman	Burbank	7
Allen G. Brandt Reston, VA		
Tanya L. ForsheitManhattan Beach		7
Scott D. Goss San Diego	9	
Kimberly D. Griffin	San Ramon	3
Sari Lyn Heller Ratican	Thousand Oaks	6
Bennet G. Kelley Santa Monica	7	
Susan Lau San Francisco	4	
Scott R. ShipmanSan Jose	3	
James G. Snell East Palo Alto	3	
Jennifer M. Urban	Berkeley	3

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

RESOLVED, upon recommendation of the Board Committee on Volunteer Involvement, that the Board appoints or reappoints, as the case may be, the following, members, Board of Directors of the California Bar Foundation, each for a two-year term commencing January 1, 2011, and expiring December 31, 2012, or until further order of the Board, whichever occurs earlier:

Reappointment:

1. Raul Ayala, Los Angeles
2. Ronald L. Blanc, Los Angeles
3. I. Neel Chatterjee, Menlo Park
4. Marguerite Downing, Monterey Park
5. David C. Grove, San Francisco
6. Dean Hansell, Los Angeles
7. Joan Kupersmith Larkin, Los Angeles

New Appointment:

8. Frederick Brown, San Francisco
9. Debora Buljat, San Diego
10. Peter H. Carson, San Francisco
11. S. Raj Chatterjee, San Francisco
12. Nancy Fineman, Burlingame
13. M. Ray Hartman III, San Diego
14. Robert D. Infelise, San Francisco
15. Paul V. Konovalov, Costa Mesa
16. Diane Baquet Smith, Los Angeles
17. Mary Ann Todd, Los Angeles
18. Karen E. Walter, Costa Mesa

and it is

FURTHER RESOLVED, upon recommendation of the Board Committee on Volunteer Involvement, that the Board appoints S. Nancy Whang, Los Angeles, member, Board of Directors of the California Bar Foundation, to replace Douglas Winthrop, resigned, for the remaining portion of Mr. Winthrop's term (i.e., December 31, 2011), 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.

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, January 7, 2011 at a time to be determined.