

# AGENDA ITEM

MARCH 10 - Board of Governors  
January 9, 2010 Minutes

**THE STATE BAR OF CALIFORNIA**  
**MINUTES**  
**BOARD OF GOVERNORS MEETING**  
**SAN FRANCISCO, CALIFORNIA**  
**SATURDAY, JANUARY 9, 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 Street, San Francisco, California 94105 1:45 p.m. on Saturday, January 9, 2010, Howard B. Miller presiding.

The following members of the Board of Governors were present: James H. Aguirre, Lowell Carruth, Joseph L. Chairez, Laura N. Chick, Angela J. Davis, George O. Davis, Jeannine English, William H. Gailey, Clark E. Gehlbach, William N. Hebert, Rex Heinke, Cheryl L. Hicks, Patrick Kelly, Paul A. Kramer, Jr., 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, Kathleen Beitiks, Saul Bercovitch, Resty Buenavidez, Diane Curtis, Randy Difuntorum Mary Lavery Flynn, Francisco Gomez, Robert A. Hawley, Judy Johnson, Dean Kinley, 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 special meeting of the Board of Governors held on Saturday October 24, 2009, in San Francisco, California, hereby are approved as written.

- 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, November 14, 2009, in Los Angeles, California, hereby are approved as written.
- 30 Mr. Miller, President reported that the State Bar Fee Bill (SB55 Corbett), cleared the state Senate on a 32-0 vote Wednesday, two days after passing the Assembly, 59-0.
- 41/42 Ms. Johnson, Executive Director/Secretary advised that Board of Governors that she plans to end her career at the State Bar effective February 2011.
- 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.
- 54-111 RESOLVED, following publication for comment and no comment having been received, and upon recommendation of the Board Committee on Operations, that the Board of Governors of the State Bar of California hereby approves the proposed revisions to The State Bar of California's Conflict of Interest Code for Designated Employees, in the form attached hereto.
- 54-121 RESOLVED, that, upon recommendation of the Discipline Oversight Committee, the Board of Governors hereby approves the Rules of Procedure for Fee Arbitrations by the Riverside County Bar Association in the form attached as Attachment A hereto as being in compliance with Business and Professions Code sections 6200-6206 and the Guidelines and Minimum Standards for the Operation of Mandatory Fee Arbitrations.
- 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 members as noted below:
- David Zvonko Skuljan: Contingent on payment of \$1,675.57 (one-third of outstanding balance) within 60 days of notice to member, waiver of remaining balance; total waiver of \$3,401.93.
- 54-152 RESOLVED, upon the recommendation of the Board Committee on Member Involvement Relations & Services, the Board of Governors amends the Family Law Section bylaws, effective immediately in the form attached hereto as Attachment A.
- 112 The Legislative proposals for inclusion in the 2010 Section and Committee Legislative Program were withdrawn to be taken up by the Board Operations Committee in advance of the legislative deadline for bills to be introduced.
- 113 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that, upon recommendation of the Board Committee on Operations, the Board of Governors hereby approves State Bar pursuit of proposed amendments to Business & Professions Code Section 6204, recognizing a party's right to seek private arbitration following non-binding mandatory fee arbitration, pursuant to a pre-existing arbitration agreement.

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

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

RESOLVED, that the third year of the contract with the firm now called Wada Williams, new name to be determined, be renewed for the remainder of the final year of the agreement, subject to renegotiation regarding compensation and staffing and to the final approval by the Board.

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

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

RESOLVED, that subject to the Governor's signing of Senate Bill No. 55 and it becoming law, the Board of Governors hereby authorizes the mailing of the 2010 membership fee billing statement to members of the State Bar; and it is

FURTHER RESOLVED, that the Board's resolution fixing the fees and schedule of charges and deadlines for 2010, as adopted in JULY 142 at its meeting on July 17, 2009, be then amended in the form attached hereto to conform with Senate Bill No. 55.

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

116 This item - Personnel Staffing - Report and Potential Action – was withdrawn from the Board's agenda.

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

RESOLVED, that upon the recommendation of the Discipline Oversight Committee, the Board of Governors hereby designates its discipline committee (currently Discipline Oversight Committee) to review and approve the rules of procedure for fee arbitrations promulgated by local bar association programs as authorized by Business & Professions Code section 6200(d).

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.

Regarding proposed Rules 1.5 and 1.8.1, Rules of Professional Conduct, the RAC Committee recommended adoption of the following resolution:

RESOLVED, that upon the recommendation of the Board Committee on Regulation and Admissions, the Board of Governors of the State Bar of California reconsiders the prior adoption of proposed Rule 1.5 of the Rules of Professional Conduct of the State Bar of California.

FURTHER RESOLVED, that the Board of Governors of the State Bar of California adopts proposed Rules 1.5 and 1.8.1 of the Rules of Professional Conduct of the State Bar of California as recommended by the Board Committee on Regulation and Admissions and developed by a minority of the Commission for the Revision of the Rules of Professional Conduct 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.

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

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

RESOLVED, upon recommendation of the Board Planning, Program Development, and Budget Committee, that the Board of Governors hereby adopts the 2010 State Bar Budget, in the form attached to these minutes and made a part hereof.

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

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

RESOLVED, upon the recommendation of the Board Committee on Planning, Program Development and Budget the Board of Governors hereby clarifies that as legal counsel for the State Bar itself, the General Counsel under the rules of professional conduct reports both to the Executive Director and the Board of Governors; and it is

FURTHER RESOLVED, that The General Counsel is subject to an annual performance review by both the Executive Director and the Board, that the Board Committee on Operations be designated, in conjunction with the Executive Director, to conduct the General Counsel's annual performance evaluation and report to the Board; and it is

FURTHER RESOLVED, that the Executive Director will advise Board Operations Committee of any material change to the terms and conditions of employment or performance of any senior executive.

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

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

RESOLVED, that upon the recommendation of Board Committee on Member Involvement Relations & Services (MIRS) and the Committee on Group Insurance Programs (COGIP), the Board approves the proposed extension to the Integrated Life Insurance Production and Administrative Agreement (State Bar Life Program) and directs staff to execute the agreement.

All members present and recorded on a new roll-call slip voted yes on the above matter, except Governor Kelly who recused himself.

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

RESOLVED, that following a public comment period and no comments having been received, and upon recommendation of the Board Committee on Member Involvement, Relations and Services, the Board of Governors of the State Bar of California hereby adopts the proposed modified Lawyer Assistance Program Rules, in the form attached hereto as Exhibit A; and that the modifications be effective immediately.

All members present and recorded on a new roll-call slip voted yes on the above matter, except for Governors English, Gehlbach and Tenenbaum.

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

RESOLVED, that the Board suspends Rule 6.50(E)(2) requiring a motion to come from a Board Committee to the Board.

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

The Board went into closed session at 12:10 p.m., and those other persons present, including senior executive staff left the meeting.

The Board resumed open session at 12:50 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 recommendation of the Board Committee on Member Involvement Relations and Services, that the Board hereby appoints Elliot K. Monka, Alhambra, member, Criminal Law Advisory Commission, effective immediately, for a term expiring at the close of the 2012 State Bar Annual Meeting, or until further order of the Board, whichever occurs earlier.

6012 RESOLVED, upon recommendation of the Board Committee on Member Involvement Relations and Services, that the Board appoint the following to the Council on Access and Fairness, effective immediately, each for the remaining portion of the resigned member's term expiring at the close of the 2010 State Bar Annual Meeting (i.e., September 26, 2010), or until further order of the Board, whichever occurs earlier: Karen V. Clopton, San Francisco, member, replacing M. Carmen Sigler, San Jose, resigned; and Paul D. Henderson, San Francisco, member, replacing Dustin Johnson, Woodland, resigned.

6021 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 reappoints Marco A. Saenz, Los Angeles, member, Commission on Judicial Nominees Evaluation, effective February 1, 2010, for a one-year term expiring February 28, 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 meeting is adjourned in memory of Jeffrey Tidus, a member of the Board of Governors from 1995 to 1998, who had begun his volunteer work at the Bar as the Board Representative of CYLA, and was serving as a member of the Committee on Professional Responsibility and Conduct, at his death.

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, March 6, 2010, at a time to be determined.