

AGENDA ITEM

MARCH 10 - Board of Trustees – November 7, 2014 Minutes

THE STATE BAR OF CALIFORNIA

MINUTES

BOARD OF TRUSTEES MEETING

SAN FRANCISCO, CALIFORNIA

FRIDAY, NOVEMBER 7, 2014

The Board of Trustees of The State Bar of California convened in open session at 8:10 am at the State Bar of California, 180 Howard Street, Board Room, 4th Floor, San Francisco, California on Friday, November 7, 2014, Craig Holden presiding.

The following members of the Board of Trustees were present: Janet Brewer, Michael Colantuono, Glenda Corcoran, Dan Dean, Terry Flanigan, Miriam Krinsky, Dennis Mangers, Joanna Mendoza, Danette Meyers, Gwen Moore, David Pasternak, Heather Rosing, David Torres and Hérrnan Vera.

The following members of staff were present: Joseph Dunn, Carina Franck, Dina Goldman, Teri Greenman, Thomas Miller, Pam Wilson and Ginnie Yee

Also present: Jennifer Wada, the State Bar's legislative advocate.

Trustee James Fox entered the meeting at 8:20

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 Trustees held on Friday, July 18, 2014, in Los Angeles, California, hereby are approved as written; and it is

FURTHER RESOLVED, that the minutes of the special meeting for the election of officers held on Friday, July 18, 2014, in Los Angeles, California, hereby are approved as written; and it is

FURTHER RESOLVED, that the minutes of the special meeting of the Board of Trustees held on Saturday, September 13, 2014, in San Diego, California, hereby are approved as written; and it is

FURTHER RESOLVED, that the minutes of the special meeting of the Board of Trustees held on Sunday, September 14, 2014, in San Diego, California, hereby are approved as written.

All members listed on the slip voted yes, except Mr. Fox who was not present.

30

Mr. Holden advised the Trustees that on October 6 the Lawyer Assistance Program unexpectedly lost their Chair, Philip F. Belleville, who had served on the LAP Committee since 2004. Mr. Belleville was a retired partner at Latham & Watkins, where he served as Chair of Latham's Litigation Department and as Chair of their Professional Standards Committee. After retiring from the practice of law, Dr. Belleville obtained a Doctor of Psychology Degree and was also certified as an alcohol and other drug counselor both in California and nationally. Mr. Holden added that he would be missed by both the Lawyer Assistance Program Committee and staff.

Mr. Holden noted that at the January 2014 Planning Session, Trustee Colantuono requested that the board be updated on the process and timeline for both the board district elections and the Supreme Court appointments.

Mr. Holden noted that the California Supreme Court appoints five members to the State Bar of California's Board of Trustees and that pursuant to Rule of Court 9.90, the Supreme Court created a State Bar Trustees Nominating Committee to solicit, receive, screen and evaluate all applications for appointment or reappointment to the Board of Trustees, and to make recommendations to the Supreme Court.

Mr. Holden stated that in 2015, one Board of Trustees position would be filled by the Supreme court and that the nominating committee would be submitting its draft 2015 process and timeline to the Supreme Court for approval. Mr. Holden noted that applications would be available December 2014, the application process would end in March 2015 and the review process would continue through the summer of 2015. The appointee would begin his/her term at the conclusion of the 2015 Annual Meeting in October.

As to the 2015-16 Board term district elections, Mr. Holden stated that there were two seats up for election, one each in Districts 4 (Imperial, Inyo, Orange, Riverside, San Bernardino and San Diego counties) and 5 (Fresno, Kern, Kings, Madera, Mariposa, Merced, Stanislaus, Tulare and Tuolumne counties).

He reminded the Board that in March 2014, the Board of Trustees moved the election cycle up four months earlier than in prior years to allow board members who are in their final year of service to run for re-election or seek reappointment in time to qualify for service as president, vice president or treasurer.

Mr. Holden advised that nominating petitions had been made available on October 1 and were due by December 1; that ballots would be mailed on December 31 and that voting would be completed by March 2. The newly elected trustees would be sworn in October 2015, at the conclusion of the State Bar's 2015 Annual Meeting.

Mr. Dunn introduced Moses Zapien, a member of the Board of the California Young Lawyers Association (CYLA), who is also member of the Stockton City Council and currently serves as President-Elect of the San Joaquin County Bar Association. Mr. Zapien thanked Mr. Dunn, President Holden and the Board of Trustees for the opportunity to address the Board of Trustees on behalf of the California Young Lawyers Association.

Mr. Zapien conveyed CYLA's support for the initiatives outlined by President Holden, during his inaugural address at the Annual Meeting: mentoring of young attorneys, strengthening pipeline initiatives that promote diversity in the legal profession, and improving access to legal services.

Mr. Zapien reported that at the 2014 State Bar Annual Meeting, CYLA introduced its "10 Minute Mentor Program," which consists of an online collection of videos from leading lawyers speaking about their respective areas of expertise.

Mr. Zapien informed the Trustees that CYLA had established an Ad Hoc Committee to develop strategies to help bridge the gap between underrepresented geographic areas of California and the State Bar. He advised that the committee was comprised of former CYLA Chair, Alex Calero, Brandon Stallings, a CYLA District 5 resident, and himself.

Mr. Zapien advised that CYLA conducted a survey to measure the impact that law school debt has on young lawyer participation in pro bono work and that the findings were submitted to the Civil Justice Strategies Task Force (CJSTF) at their October meeting. Mr. Zapien thanked Miriam Krinsky for inviting CYLA to participate in the work of the CJSTF.

Mr. Zapien noted that CYLA had reviewed the proposed pre-admission competency training requirements being considered by the Task Force on Admissions Regulation Reform and had submitted comments in support of pre-admission competency training requirements for law students and recent law school graduates.

Mr. Zapien concluded, telling the Board that it would be acting to revise CYLA's mission to include auditing MCLE programs. He noted that in 2012 CYLA had been threatened with extinction with the passage of Senate Bill 163, which transformed the State Bar governance structure, eliminating CYLA's seat on the Board of Trustees and its regulatory function. Subsequently, CYLA had engaged in a multi-year effort to identify a regulatory role that supported the State Bar's public protection mission. That effort resulted in the current proposal to expand CYLA's mission to include an MCLE program audit function. Mr. Zapien expressed CYLA's gratitude for the support shown to it during this endeavor, by the Board, Mr. Dunn, and State Bar staff.

Mr. Dunn introduced Mark Ressa, Co-Chair of the Council of State Bar Sections and a former Chair of the Family Law Section.

Mr. Ressa thanked the Board of Trustees, President Craig Holden and Mr. Dunn for the opportunity to provide a Sections' update to the Board.

Mr. Ressa reported on Section membership and dues advising that in 2015 six sections would raise their dues resulting in nine sections with dues at \$95.00, five sections at \$85.00 and two remaining at \$75.00.

Mr. Ressa reported that regardless of the dues increases, the overall section membership had remained stable.

Mr. Ressa mentioned that in 2014 the Sections provided 184 webinar programs and over 50 in-person stand-alone CLE programs, as well as, 99 of 143 CLE programs at the State Bar's Annual Meeting.

Mr. Ressa reported that five of the Sections held multi-day education institutes ranging in size from 225 – 750 registrants and that the IP Institute and the Taxation Section Annual Meeting would take place November 8-9. Additionally, in January 2015, the Section Education Chairs would hold their annual in-person meeting to consider a number of topics, including identifying ways to collaborate on educational projects in 2015.

Mr. Ressa reported that all sections would have a social media presence on Facebook and Twitter by year's end and that several sections currently have a presence on LinkedIn.

Mr. Ressa encouraged the Board section liaisons to continue their outreach.

Mr. Dunn introduced Jennifer Wada, the State Bar's legislative advocate. Ms. Wada reported on the results of the general election held on November 4, 2014.

Ms. Wada noted that there was no change to the majority control of the California State Assembly. Ms. Wada advised that the Democrats currently control the chamber, but only by a slim margin that was decreased following the general election. Their seats decreased from 55 to 52, after the Republicans picked up four seats to increase their number from 24 to 28. In addition to the three seats the Republicans took from the Democrats, a vacant seat was filled.

Mr. Dunn noted that Roger Dickinson, a Democratic Assembly member representing District 7, who was a 2014 candidate for District 6 of the California State Senate, lost the election to Richard Pan. Mr. Dunn noted that Dickson had always been helpful with State Bar sponsored legislative initiatives.

Ms. Wada informed that the Assembly District 66 race, between the Democratic incumbent Al Muratsuchi and Republican David Hadley was too close to call.

Mr. Dunn introduced Carina Franck and Trustee Glenda Corcoran. Ms. Franck and Trustee Corcoran reported that there had been 17 town hall meetings and cited the partnerships that had been established to conduct the town hall meetings.

Ms. Franck mentioned that the State Bar's "Alto" consumer video in Spanish had been shown at the Los Angeles Mayor's Office for Gang Reduction & Youth Services "Summer Night Lights" program and that State Bar consumer protection materials and brochures had been distributed.

Ms. Franck notified the Trustees that the next meeting of the Consumer Protection Regulatory Roundtable would take place on November 20 in Sacramento. She explained that the roundtable had been established to broaden and formalized communications and collaboration among consumer protection agencies.

Mr. Dunn and Pam Wilson, Senior Director, Education, informed the Board that the 2017 Annual Meeting scheduled for Monterey would have to be moved because the Monterey Conference Center would be undergoing renovation and might not be ready in time to host meeting. Mr. Dunn advised that they were exploring the possibility of moving the 2017 meeting to Anaheim, but that the meeting dates would have to be moved forward.

Mr. Fox entered the meeting at 8:20

Mr. Holden called for public comment, inquiring as to whether there were persons in attendance who wished to comment on a particular item on the agenda. No one present requested comment.

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.

54-131 RESOLVED, that upon the recommendation of the Admissions and Education Committee, the Board hereby delegates to staff the function of making the annual recommendation to the California Supreme Court that eligible suspensions that meet the criteria for expungement set forth in California Rule of Court 9.6 be expunged; and it is

FURTHER RESOLVED, that, upon the Court's order of expungement, staff is directed to immediately expunge the suspensions from the membership records and notify each member of the Court's order and the expungement.

54 - 141 RESOLVED, that upon the recommendation of the Planning and Budget Committee, the Board hereby approves the fee adjustments for the State Bar members as presented this day before the Board, and on file in the San Francisco office of the State Bar.

54-142 Financial Statements for the Quarter Ended September 30, 2014

RESOLVED, that upon the recommendation of the Planning and Budget Committee, the Board hereby receives the financial statements in the form this day before the Board, for the quarter ended September 30, 2014, as certified by the Chief Financial Officer, and on file in the San Francisco office of the State Bar.

Investment Reports for the Quarter Ended September 30, 2014

RESOLVED, that upon the recommendation of the Planning and Budget Committee, the Board hereby receives the investment reports in the form this day before the Board, for the quarter ended September 30, 2014, as certified by the Chief Financial Officer, and on file in the San Francisco office of the State Bar.

Client Security Fund Report for the Quarter Ended September 30, 2014

RESOLVED, that upon the recommendation of the Planning and Budget Committee, the Board hereby receives the Client Security Fund report in the form this day before the Board, for the quarter ended September 30, 2014, as certified by the Chief Financial Officer, and on file in the San Francisco office of the State Bar.

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

RESOLVED, that upon the recommendation of the Board Executive Committee, the Board of Trustees hereby herby approves the amendment to Section 20 of the Rules and Regulations Pertaining to the Employment of Confidential Employees consistent with the item before the Board Committee and Board this date.

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

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

RESOLVED, that upon the recommendation of the Board Executive Committee, the Board of Trustees hereby approves the proposed amendments to the Rules and Regulations of the State Bar of California Pertaining to the Benefits, Terms and Conditions Governing State Bar Court Judge Service, as set forth in Attachment 1 to be effective January 1, 2015.

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

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

RESOLVED, that following a period of public comment and consideration of the public comment received, and upon the recommendation of the Board Executive Committee, the Board hereby adopts the implementing recommendations proposed by the Task Force on Admissions Regulation Reform, which appear as Attachments A – C of the Phase II Final Report at Attachment 4; and it is

FURTHER RESOLVED, that the Board direct staff to pursue adoption of the proposed amendments to the Rule of Court and Business and Professions Code.

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

114 Withdrawn

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

RESOLVED, that upon the recommendation of the Regulation and Discipline Committee, the Board hereby approves the Model Rules for Voluntary Fee Mediation as developed by the Committee on Mandatory Fee Arbitrations and attached here to; and it is

FURTHER RESOLVED, that amendments by local bar associations to their local fee mediation rules and procedure that conform with the Model Rules approved here are deemed approved by the Board and its designee (RAD) upon the filing with the Director of the State Bar's Office of Mandatory Fee Arbitration such amendments.

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

122 Withdrawn

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

RESOLVED, that upon recommendation of the Committee on Regulation and Discipline, the Board of Trustees hereby establishes a second Commission for Revision of the Rules of Professional Conduct; and it is

FURTHER RESOLVED, that upon recommendation of the Committee on Regulation and Discipline, the Board of Trustees hereby adopts a charter for the Commission in the form attached hereto as Attachment 2; and it is

FURTHER RESOLVED, that upon recommendation of the Committee on Regulation and Discipline, the Board of Trustees hereby suspends and waives the procedures for appointment of State Bar committees and commissions and delegates authority to the President to appoint the membership of the Committee, not to exceed 12 members; and it is

FURTHER RESOLVED, that upon recommendation of the Committee on Regulation and Discipline, the Board of Trustees hereby sets the following parameters for the President's appointments: that the appointments be made generally subject to the criteria that appear in the Board's appointment policies; that the President appoint members with diverse but applicable professional expertise, and consider, for example, practitioners, current or former judicial officers, academicians, former COPRAC members, and public members; and that the President discuss the list of potential candidates with Court staff prior to finalizing the appointments.

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

132 Upon motion made, seconded and unanimously adopted, it was
RESOLVED, following publication for comment and no comments being received, and upon the recommendation of the Admissions and Education Committee, that the Board hereby adopts the proposed amendment to Rules of the State Bar; Title 7, Division 2, Rule 7.101, regarding special master eligibility requirements presented this day.

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

143 Withdrawn

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

RESOLVED, that upon the recommendation of the Stakeholders and Access to Justice Committee, the Board hereby approve the revisions made to the Committee Charge of the California Young Lawyer Association, in the form attached.

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

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

RESOLVED, that upon the recommendation of the Stakeholders and Access to Justice Committee, the Board hereby approves the following Section legislative proposals: BLS-2015-01, BLS-2015-02, BLS-2015-03, BLS-2015-04, FL-2015-05, FL-2015-06, FL-2015-07, FL-2015-08, FL-2015-09, T&E-2015-10, and T&E-2015-11.

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

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

RESOLVED, that upon the recommendation of the Stakeholder and Access to Justice Committee, the Board hereby provides that if there is a fund balance in non-mandatory fee revenues at the end of 2014, of an amount up of at least \$150,000 of any such available funds to help address the justice gap in the access to justice by low income persons in rural areas of California; and it is

FURTHER RESOLVED, that the allocated funds are granted to the California Bar Foundation for the purpose of a pre-law graduate incubator project to produce lawyers who are skilled and committed to representing low and moderate income clients specifically in rural areas of California.

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

The Board went into closed session at 9:10 am and those other persons present left the meeting. The Board considered the appointments in closed session and the action taken is reported below.

Item 6018 was pulled from the consent agenda.

Upon motion made, seconded and unanimously adopted, it was

6018 RESOLVED, that upon recommendation of the Board Executive Committee, the Board hereby appoints or reappoints, as the case may be, the following members to the Board of Directors of the California Bar Foundation, each for a two-year term commencing January 1, 2015, and expiring December 31, 2016, or until further order of the Board, whichever occurs earlier:

Reappointment

Eric Casher, Oakland
S. Raj Chatterjee, San Francisco
Dawn Collins, Los Angeles
Robert Infelise, San Francisco
Susan Jamison, San Francisco
Paul Konovalov, Costa Mesa
Dianne Baquet Smith, Los Angeles
Mary Ann Todd, Los Angeles
Clothilde Hewlett, San Francisco

New Appointment

Jeanne Fugate, Los Angeles
Mary Hernandez, Oakland
David Kelly, Oakland
Mark Milstein, Los Angeles
Heather Rosing, San Diego
Robert Gilchrest, Los Angeles
Damian Martinez, Los Angeles

All members present and recorded on the roll-call slip voted yes, except Ms. Rosing who recused herself.

The remaining closed consent appointment agenda was presented to the Board and, no objection being raised thereto, all below consent matters were deemed unanimously adopted.

6011 RESOLVED, that upon the recommendation of the Board Executive Committee, the Board hereby appoints Audra Ibarra, Palo Alto, member, Committee on Appellate Courts, replacing Tara Lundstrom, declined member, effective immediately, for the remaining portion of Ms. Lundstrom's term expiring at the close of the 2017 State Bar Annual Meeting, or until further order of the Board, whichever occurs earlier.

6012 RESOLVED, that upon the recommendation of the Board Executive Committee, the Board hereby appoints Timothy Edward Warriner, Sacramento, secretary, effective immediately, for a term expiring at the close of the 2015 State Bar Annual Meeting (October 11, 2015), or until further order of the Board, whichever occurs earlier.

6013 RESOLVED, upon the recommendation of the Board Executive Committee, the Board hereby appoints Kurt D. Hermansen, San Diego, chair, Criminal Law Advisory Commission, effective immediately, replacing Dominic Falasco, resigned, for the remaining portion of Mr. Falasco's term expiring at the close of the 2015 State Bar Annual Meeting (October 11, 2015), or until further order of the Board, whichever occurs earlier; and it is

FURTHER RESOLVED, that the Board hereby appoints Jeffrey T. Hammerschmidt, Fresno, vice chair of said committee, effective immediately, for term expiring at the close of the 2015 State Bar Annual Meeting (October 11, 2015), or until further order of the Board; and it is

FURTHER RESOLVED, that the Board hereby appoints Douglas O. Treisman, Fresno, member of said committee, effective immediately, for a term expiring at the close of the 2018 State Bar Annual Meeting (October 16, 2018), or until further order of the Board, whichever occurs earlier.

6014 RESOLVED, that upon the recommendation of the Board Executive Committee, the Board hereby appoints Judge Mark A. Juhas, Los Angeles, chair, and reappoints Joanne E. Caruso, Pasadena, vice chair, of the California Commission on Access to Justice, each for a term commencing January 1, 2015, and expiring December 31, 2015, or until further order of the Board, whichever occurs earlier.

6015 RESOLVED, that upon the recommendation of the Board Executive Committee, the Board hereby appoints the following members to the Council on Access and Fairness, effective immediately, each for a term expiring at the close of the 2017 State Bar Annual Meeting, or until further order of the Board, whichever occurs earlier:

Hon. Holly Fujie, Los Angeles
Hon. Bobbi Tillmon, Santa Monica
Phyllis Cheng, Elk Grove
Amanda Lopez, Los Angeles
Thomas Weathers, San Rafael

6016 RESOLVED, that upon the recommendation of the Board Executive Committee, the Board hereby reappoints the fee arbitrators whose names appear on the list attached hereto as Attachment A to the State Bar Mandatory Fee Arbitration Department; each for a one-year term commencing January 1, 2015, and expiring December 31, 2015, or until further order of the Board, whichever occurs earlier; and it is

FURTHER RESOLVED, that the Board appoints the applicants whose names appear on the list below to the State Bar Mandatory Fee Arbitration Department, each for a term commencing November 7, 2014, and expiring December 31, 2015, or until further order of the Board, whichever occurs earlier:

| Name | County | Bar Number |
|------------------------|---------------|-------------------|
| Bajracharya, Swatantra | Los Angeles | 224164 |
| Blank, Christopher | Orange | 115450 |
| Bolnick, Joseph S. | Los Angeles | 93542 |
| Inskeep, Don R. | Riverside | 46825 |
| Kermani, Samira | Los Angeles | 171328 |
| Torri, Joseph | Los Angeles | 233905 |
| Wagner, Mark H. | Los Angeles | 258214 |
| Gagyor, Melinda | Los Angeles | Lay arbitrator |
| Howdeshell, Renee | Los Angeles | Lay arbitrator |
| Williams, Charlie | Los Angeles | Lay arbitrator |

and it is

FURTHER RESOLVED, that the Board reappoints Kenneth E. Bacon, Sacramento, as the State Bar's Presiding Arbitrator, effective January 1, 2015, and expiring December 31, 2015, or until further order of the Board, whichever occurs earlier.

6017 RESOLVED, that upon recommendation of the Board Executive Committee, the Board hereby appoints Sandhya Ramadas, Los Angeles, member, Committee of Bar Examiners, replacing Eduardo Angeles, Los Angeles, resigned, effective immediately, for the remaining portion of Mr. Angeles' term, which expires at the close of the 2017 State Bar Annual Meeting, or until further order of the Board, whichever occurs earlier.

6019 RESOLVED, that upon the recommendation of the Board Executive Committee, the Board hereby appoints Stewart Hsieh, Los Angeles, interim chair, Lawyer Assistance Program Oversight Committee, replacing Philip Belleville, deceased, for a term commencing immediately and expiring upon appointment of a replacement, or until further order of the Board, whichever occurs earlier.

The Board went into closed executive session at 9:25 am and those other persons present left the meeting.

The Board returned to open session and adjourned its meeting at 4:35 pm.

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 Citizen Hotel Sacramento, Metropolitan Terrace, 926 J Street, Sacramento, CA 95814, on Friday, March 13, 2015, at a time to be determined.