

President Toy called the meeting to order at 9:30 a.m. on Friday, March 26, 2010 at the State Bar of Michigan

Commissioners present:

David R. Brake
Lori A. Buiteveg
B. D. "Chris" Christenson
Margaret A. Costello
Bruce A. Courtade, Secretary
Brian D. Einhorn, Treasurer
James N. Erhart
Elias J. Escobedo, Jr.,
Julie I. Fershtman, Vice President
Stephen J. Gobbo
Elizabeth M. Johnson
David A. Kallman
Donald E. McGinnis, Jr.
Maureen M. McGinnis

Hon. William B. Murphy
Lambro Niforos
Lawrence P. Nolan
Victoria A. Radke
Michael J. Riordan
Donald G. Rockwell
Thomas C. Rombach
Kurt E. Schnelz
Richard J. Siriani
Julie A. Sullivan
Angelique Strong Marks
Laurin C. Roberts Thomas
Charles R. Toy, President
Gregory L. Ulrich

Commissioners absent and excused:

Commissioners Danielle Mason Anderson, Laura Chappelle, Richard L. Cunningham, W. Anthony Jenkins, President-Elect, and David A. Perkins were absent and excused.

State Bar Staff present:

Janet Welch, Executive Director
Margaret Bossenbery, Executive Coordinator
Nancy Brown, Director, Member Services and Communications
Gregory Conyers, Diversity Director
Molly Dean, Case Monitor, LJAP
Dawn Evans, Director, Professional Standards
Cliff Flood, General Counsel
Danon Goodrum-Garland, Professional Standards Investigative Counsel
James Horsch, Director, Finance and Administration
William Kramer, Director, Information Services
Elizabeth Lyon, Governmental Relations Director
Tracey Sproul, Member Service Representative
Kati Thrush, Member Services and Events Manager
Anne Vrooman, Research and Development Director

Guest(s):

Robert Gillett, Director of Southeast Michigan Legal Services
Linda Rexer, Director, Michigan State Bar Foundation

Pro Bono in Michigan

The board received a verbal report from Mr. Robert Gillett, Ms. Linda Rexer, and Ms. Anne Vrooman about the status of pro bono legal work in Michigan.

Consent Agenda

Minutes

The Board received the minutes from the January 22, 2010 Board of Commissioners meeting and the January 12, February 11, and March 2, 2010 Executive Committee Meetings.

President's Report, Charles R. Toy, President

The Board received a written report on the President's recent activities.

Executive Director's Report, Janet K. Welch, Executive Director

The Board received a written report on the Executive Director's recent activities.

Finance, Brian D. Einhorn, Chairperson

The Board received the FY 2010 Financial Reports through February, 2010, the FY 2010 Financial Forecast and the SBM Retirement Plans Annual Report

Professional Standards, Bruce A. Courtade, Chairperson

The Board received the Client Protection Fund Claims.

A motion was offered, supported, and carried, to approve the consent agenda.

COMMISSIONER COMMITTEES

Finance, Brian D. Einhorn, Chairperson

Mr. Einhorn provided the Board with a financial and investment update.

Professional Standards, Bruce A. Courtade, Chairperson

ABA House of Delegates Appointments

Mr. Courtade offered a motion to approve the recommendations of the Professional Standards Committee to reappoint Mr. E. Christopher Johnson and Mr. Gregory L. Ulrich to two-year terms as SBM delegates to the ABA House of Delegates and to appoint Ms. Marjory Basile to a two-year term as an alternate. Support was offered and the motion was approved.

Professional Ethics Committee and Judicial Ethics Committee Rules Update

In response to the discussion at the January 22 Board meeting regarding the rules of the Professional Ethics committee and the Judicial Ethics committee, the Professional Standards committee votes to amend the language of Rule 8, Paragraph B, by adding the words "for approval" at the end of the first sentence and deleting the sentence, "A formal opinion adopted by the State Bar Board of Commissioners reflects the policy of the State Bar." No action is required from the Board.

The Board voted to add a magistrate to the membership of the Judicial Ethics Committee at the January 22 board meeting and the process for doing this will be discussed at the next Judicial Ethics Committee meeting.

Unauthorized Practice of Law Complaints Proposed for Litigation

This item was moved to the agenda for the Executive Session.

Programs and Services, Julie I. Fershtman, Chairperson

Events Update

Ms. Thrush provided the Board with an update on the Bar Leadership Forum that takes place June 11- 12 on Mackinac Island and registration materials were provided to the Board. She also extended an invitation to the Board to attend the Legal Milestone event taking place at Treetops Resort in Gaylord on Wednesday, June 10.

50 Year Golden Celebration Resolution

Ms. Fershtman offered a motion to approve the resolution for the 50-Year Golden Celebration. Support was offered and the motion was approved.

New Member Discount Programs

Ms. Thrush discussed three membership discount programs.

A motion was offered to adopt a new member service from Liberty Mutual – Home and Auto Insurance program. Support was offered and the motion was approved.

A motion was offered to adopt a new member service from Intercall – Conference Calling Program. Support was offered and the motion was approved.

A motion was offered to adopt a new member service from Sprint – Cellular Phone Service. Support was offered and the motion was approved.

Public Policy, Image and Identity, W. Anthony Jenkins, Chairperson

Ms. Lyon led the Public Policy, Image and Identity Committee's discussion in Mr. Jenkins' absence.

Ms. Lyon reported that the Board will receive a report via e-mail from Governmental Consultant Services, Inc. next week after the legislative session was completed.

Ms. Lyon reported that the Board was provided with a report from the Justice Initiatives Co Chairs Hon. Cynthia Diane Stephens and Ms. Terri L. Stangl.

Ms. Lyon provided the Board with an update on the legislation concerning the sales tax on legal services. Board members discussed the conversations they may have had with legislators or local bar association members regarding this issue.

Ms. Lyon provided the Board with an update on HB 5676 on public defense reform. A hearing was held last month and many groups voiced their concerns about the bill as currently drafted. They included, among others, the Michigan Association of Counties, the Michigan Judges Association and the Michigan District Judges Association. The next hearing is scheduled for April 22 beginning at 12:00 noon.

ABA Day Topics

The Board was provided with a list of topics that the ABA would like attendees to lobby for while meeting with Representatives and Senators and their staff in Washington. This list is before the Board for discussion, and consideration in light of Keller so that when the SBM representatives are in Washington we are in partnership with the ABA on as many issues as possible.

State Bar staff has drafted letters to each of the Michigan legislators in Washington and is asking Board members to sign the ones addressed to their Congressional representatives. These letters will be left at the offices during the meetings held during ABA days. Letters are also being sent by legal aid offices located in Congressional districts.

1. Legal Services Corporation Funding

A motion was offered and supported to request the LSC recommended FY 2011 appropriation. Motion approved.

2. Legal Services Corporation Reauthorization

H.R. 3764: Civil Access to Justice Act of 2009

The committee voted to take no action at this time.

S. 718 Civil Access to Justice Act of 2009

The committee voted to take no action at this time.

3. Civil Rights Relief Act

H.R. 3035: Civil Rights Tax relief Act of 2009

A motion was offered and supported to support this bill. Motion approved.

S. 1360. Civil Rights Tax relief Act of 2009

A motion was offered and supported to support this bill. Motion approved.

4. S. 182. Paycheck Fairness Act

The committee voted to take no action taken at this time.

State Legislation Items

Juvenile Competency – 10 Bill Package, IIB 5174 – 5175 & IIB 5482 - 5489

A motion was offered to defer action on this package and authorize the Criminal Jurisprudence and Practice committee to advocate its position on these bills. This package of bills will come back before the board for consideration once amendments have been made. This motion was supported and approved.

IIB 5468 Communications; technology; validity of judgment or order created with an electronic record or signature; clarify, Amends sec. 7 of 2000 PA 305 (MCL 450.837).

Motion was offered to support if amended to address the IT Law Section's concerns. Motion supported and approved.

IIB 5371 Courts; other; certain court fees; exempt prosecuting attorneys from paying. Amends secs. 321 & 2529 of 1961 PA 236 (MCL 600.321 & 600.2529).

Motion was offered to support. Motion supported and approved.

IIB 5518 Civil Procedure; evictions; manner of serving summons and complaint in summary proceedings; revise. Amends

Motion was offered to oppose the bill but indicate in the letter that we may support legislation to accomplish section 5732 of the bill. Motion supported and approved.

IIB 5601 Courts; juries; individuals who fail to return jury questionnaires; ensure continued eligibility for jury service

Motion offered to support the bill. Motion supported and approved.

IIB 5783 Courts; juries; eligibility to postpone jury service of students; expand to include full-time higher education students. Amends sec. 1335 of 1961 PA 236 (MCL 600.1335).

Motion offered to support this bill. Motion supported and approved.

SB 0960 Occupations; notaries public; procedure for notary public when witnessing the signature of certain individuals, revise. Amends sec. 25 of 2003 PA 238 (MCL 55.285).

Motion offered to oppose this bill. Motion supported and approved.

Proposed Rule Change from Federal Trade Commission

The American Bar Association has asked all state bar associations to request amendments to a proposed rule change that the Federal Trade Commission (FTC) is reviewing on Mortgage Assistance Relief Services. The bill as amended allows for a very narrow exemption for attorneys who provide these services. A motion was offered and supported to adopt the ABA position and to communicate that to the FTC. Motion approved.

LEADERSHIP REPORTS

President's Report, Charles R. Toy, President

Board Officer Election Procedure, Matrix and 2010 Timeline

Mr. Toy informed the board that the election of officers would take place at the July Board meeting. A letter of interest and completed matrix should be submitted to Mr. Toy and Janet Welch by June 9, 2010.

Member Survey Workgroup

Mr. Toy informed that a workgroup is working on developing the questions that will be on the State Bar dues form in 2010. Four or five questions will be asked of the members. Mr. Toy indicated that if any Board members had any suggestions regarding questions, to please let him know.

Mr. Toy reported that a work group is being formed to review the online member directory and that Mr. Jenkins would lead that effort. If any members of the board are interested in serving on this workgroup, they should contact Mr. Jenkins or Ms. Welch.

SBM Reapportionment Update

Mr. Toy informed the Board that a committee to review the statistics on reapportionment of State Bar elected positions has met and reviewed the preliminary findings. The proposed reapportionment must be approved by February 10 in order to be included in the 2010 SBM Elections. Mr. Toy provided the Board with the data analysis regarding reapportionment.

Executive Director's Report, Janet K. Welch, Executive Director

Supreme Court Update

Ms. Welch provided the Board with an update on the Michigan Supreme Court topics and informed the board that the State of the Judiciary is taking place on April 22.

Personnel Update

Ms. Torush introduced a new SBM employee, Tracey Sproul, Members Service Representative.

FY2011 Budget Process, Roles and Calendar

Mr. Horsch provided the board with information about the FY 2011 budget process. Mr. Horsch indicated that the first draft of the budget will come before the Board at its June 11 meeting. The Finance Committee will meet prior to the July Board meeting to review and discuss the budget and the final budget will be before the Board in July for its approval.

J1 Summit – April 12

The Justice Initiatives Summit taking place on April 12 is a product of the restructuring of the delivery of Justice Initiatives (JI) programs and services. The plan is to convene all of the core JI volunteers along with public policy decision makers whose areas of interest affect justice initiatives to determine what the SBM should focus on in the upcoming year. This year, the SBM is bringing in a Massachusetts appellate judge and a law school professor, both of whom have national reputations on ways in which pro se litigants are handled. They are also leaders in civil Gideon issues.

Member Demographics

Ms. Vrooman provided the Board with a current overview of the demographics of the members of the State Bar of Michigan.

Judicial Crossroads Task Force

Ms. Welch provided the Board with an update on the activities of the Judicial Crossroads Task Force and its four committees. Ms. Welch indicated that if asked about the recommendations of the Task Force, a good talking point would be that the Structure and Resources Committee, consisting entirely of judges, is developing recommendations that have been unanimous and that they have been working closely with all of the judges' associations. All committees will submit their recommendations to the entire Task Force in June. The Task Force will include those recommendations in its 2010 report.

Diversity Update

This item is deferred to the June meeting.

Suspension of Attorneys

Ms. Welch reported to the Board that the number of members suspended due to nonpayment of dues decreased from prior years. One reason is that an e-mail was sent this year to members who had not paid reminding them of the date on which suspension would occur. A significantly higher percentage of out of state members were suspended for nonpayment of dues than in-state members.

Update on SBM Blog

Ms. Welch reported that several hundred readers are accessing the blog each day.

Litigation Report

There is no report for this meeting because there is currently no pending litigation.

Representative Assembly Report, Elizabeth M. Johnson, Chairperson

Ms. Johnson provided the Board with a review of what is on the agenda of the March 27, 2010 Representative Assembly meeting.

Ms. Johnson indicated to the Board that the RA will be presented with the reapportionment data and vote on the proposed reapportionment at tomorrow's meeting.

American Bar Association (ABA) Report, Reginald Turner, State Delegate

In Mr. Turner's absence, Ms. Welch provided the Board with information regarding the mid-winter meeting in February. She also reviewed the items discussed at the House of Delegates meeting.

Young Lawyers Section Report, Danielle Mason Anderson, Chairperson

The Commissioners received a written report on the Young Lawyers Section activities. In Ms. Mason Anderson's absence, Ms. McGinnis reviewed the report with the board members.

Comments or questions from Commissioners

Mr. Courtade announced that there is an event in Grand Rapids on April 12 Michigan Campaign for Justice to bring people up to speed.

Comments or questions from the public

There were none.

Executive Session

The Board went into an executive session to discuss a Unauthorized Practice of Law proposal and the contract and evaluation of Executive Director Janet Welch.

The Board reconvened after the executive session. The Board took the following actions:

1. Motion made, supported and passed unanimously to authorize the filing of a UPL complaint against Jerome J. Repovz d/b/a Sound Financial Services.
2. Motion made, supported and passed unanimously to authorize the filing of a UPL complaint against Okumba-John Okumba
3. Motion made, supported and passed unanimously directing the General Counsel to draft a simple amendment to the Executive Director's existing contract, extending the contract for a period not to exceed one year, and authorizing President Toy to execute the extension on behalf of the State Bar.

Adjournment

The meeting was adjourned at 12:40 p.m.