

STATE BAR OF MICHIGAN  
BOARD OF COMMISSIONERS  
FRIDAY, JANUARY 18, 2019  
MICHAEL FRANCK BUILDING  
LANSING, MI  
9:30 A.M.  
AGENDA

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State Bar of Michigan Statement of Purpose

“...The State Bar of Michigan shall aid in promoting improvements in the administration of justice and advancements in jurisprudence, in improving relations between the legal profession and the public, and in promoting the interests of the legal profession in this state.”

Rule 1 of the Supreme Court Rules Concerning the State Bar of Michigan

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Finance Committee Meeting.....Room 1  
Professional Standards Committee Meeting..... Hudson Room  
Communications and Member Services Meeting.....Room 3  
Public Policy Meeting.....Room 2

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**PHOTOGRAPHER WILL BE HERE TO TAKE A GROUP BOARD PHOTO  
IMMEDIATELY BEFORE THE BOARD MEETING BEGINS**

I. Call to Order.....Jennifer M. Grieco, President

**CONSENT AGENDA**

II. **Minutes**

- A. November 16, 2018 Board of Commissioners\*
- B. December 4, 2018 Board of Commissioners\*
- C. November 7, 2018 Executive Committee meeting\*
- D. December 11, 2018 Executive Committee meeting\*

III. **President’s Activities**.....Jennifer M. Grieco, President

- A. Recent Activities\*

IV. **Executive Director’s Activities**.....Janet K. Welch, Executive Director

- A. Recent Activities\*

V. **Public Policy**.....Dennis M. Barnes, Chairperson

- A. Model Jury Instructions\*

VI. **Finance**.....James W. Heath, Chairperson

- A. FY 2019 Financial Reports through November 2018\*

VII. **Audit Committee Update**.....James W. Heath, Chairperson

- A. FY 2018 SBM Annual Financial Report\*\*
- B. Report on the FY 2018 Audit from Auditing Firm – Andrews Hooper Pavlik PLC

**LEADERSHIP REPORTS**

- VIII. **President’s Report**.....Jennifer M. Grieco, President
  - A. Professionalism Work Group
  - B. Governance Task Force
  
- IX. **Executive Director’s Report** .....Janet K. Welch, Executive Director
  - A. *Fleck v Welch* Update
  - B. CloudLaw Update
  - C. Goals and Priorities for FY 2019
  - D. Interim Administrator/Receivership Program\*
  - E. Lawyer Referral Services Update
  - F. SBM Building Closure Update
  
- X. **Representative Assembly Report** ..... Richard L. Cunningham, Chairperson
  - A. April 13, 2019 meeting
  
- XI. **Young Lawyers Section Report** ..... Kara Hart-Negrich, Chairperson

**COMMISSIONER COMMITTEES**

- XII. **Finance**.....James W. Heath, Chairperson
  - A. FY 2018 Financial and Investment Update
  
- XIII. **Professional Standards** .....Dana M. Warnez, Chairperson
  
- XIV. **Communications and Member Services** ..... Robert J. Buchanan Chairperson
  - A. New Member Partner Program\*
  - B. Master Lawyer Section\*
  - C. NEXT Conference/Annual Meeting\*\*
  
- XV. **Public Policy**.....Dennis M. Barnes, Chairperson
  - A. Court Rules\*\*
  - B. Other\*\*

**OTHER REPORTS**

- XVI. **American Bar Association (ABA) Report** .....Delegates

**FOR THE GOOD OF THE PUBLIC AND THE PROFESSION**

- XVII. **Comments or questions from Commissioners**
  
- XVIII. **Comments or questions from the public**
  
- XIV. **Adjournment**

\*Materials included with agenda

\*\* Materials delivered or to be delivered under separate cover or handed out

President Grieco called the meeting to order at 9:45 p.m. on November 16, 2018 in the Boardroom of the Michael Franck Building in Lansing, MI.

Commissioners present:

Danielle Mason Anderson  
David C. Anderson  
Dennis M. Barnes, President-Elect  
Joseph J. Baumann  
Robert J. Buchanan, Vice President  
Hon. Clinton Canady III  
B.D. "Chris" Christenson  
Richard L. Cunningham  
Josephine A. DeLorenzo  
Andrew F. Fink III  
Jennifer M. Grieco, President  
Lisa J. Hamameh  
Edward L. Haroutunian  
Kara R. Hart-Negrich

James W. Heath, Treasurer  
Michael S. Hohausser  
Thomas H. Howlett  
E. Thomas McCarthy Jr.  
Joseph P. McGill  
Hon. David A. Perkins  
Barry R. Powers  
Victoria A. Radke  
Chelsea M. Rebeck  
Gregory L. Ulrich  
Dana M. Warnez, Secretary  
Erane C. Washington  
Travis W. Weber  
Ryan Zemke

Commissioners absent and excused:

Aaron V. Burrell  
Syeda F. Davidson

Shauna L. Dunnings  
Daniel D. Quick

State Bar Staff present:

Janet Welch, Executive Director  
Marge Bossenbery, Executive Coordinator  
Nancy Brown, Director, Communications and Member Services Division  
Candace Crowley, Senior Consultant  
Peter Cunningham, Assistant Executive Director and Director, Governmental Relations  
Darin Day, Director, Outreach and Constituent Development  
Katherine Gardner, UPL Attorney  
Danon Goodrum-Garland, Director, Professional Services Division  
Kathryn Hennessey, Public Policy Counsel  
James Horsch, Director, Finance and Administration Division  
Nkrumah Wynn Johnson, Assistant General Counsel  
Robert Mathis, Pro Bono Service Counsel  
Samantha Meinke, Media Manager  
Alecia Ruswinckel, Assistant Director, Professional Standards Division  
Kari Thrush, Assistant Director, Communications and Member Services Division

Guests

Jennifer Bentley

### Consent Agenda

The Board received the minutes from both of the September 26, 2018 Board meetings.

The Board received the minutes from the September 11 and October 9, 2018, Executive Committee meetings.

The Board received the recent activities of the President.

The Board received the recent activities of the Executive Director.

The Board received the FY 2018 Financial Reports through July 2018.

The Board received the Financial Safety Margin Calculation

The Board received the District and Fitness Committee Appointments

The Board received Client Protection Fund Claims.

The Board received Section Bylaw Amendments from the Alternative Dispute Resolution, Animal Law, Labor and Employment, and Master Lawyer Sections.

Ms. Grieco asked the Board if there were any items that needed to be removed from the consent agenda.

Mr. Ulrich requested that the amendments to the Master Lawyers Section bylaws be removed.

A motion was offered and supported to approve the consent agenda as amended. The motion was approved.

A motion was offered and supported to have the amendments to the bylaws of the Master Lawyers Section be referred back to the section for the changes as proposed. The motion was approved.

## LEADERSHIP REPORTS

**President's Report**, Jennifer M. Grieco, President

### Professionalism Summit

Ms. Grieco provided the Board with an overview of what took place at the Promoting Professionalism in the 21<sup>st</sup> Century Summit in October. The Board received a report that contained a program summary that described the speakers, workshops, panels, and breakout sessions that took place. Ms. Grieco anticipates that this report will be distributed to bar and section leaders and courts.

Ms. Welch reported that she had met with the Executive Directors from the AGC, ADB, and JTC, along with Milt Mack, State Court Administrator, to follow up on the Summit recommendations, specifically on the involvement of judges.

### Great Rivers Bar Leadership Conference

Ms. Grieco reported that the President, President-Elect, and Executive Director of the State Bar attended the Great Rivers Bar Leaders Conference in October. The conference consists of the state bars from Ohio, Indiana, Illinois, Wisconsin, Iowa, Minnesota, Nebraska and Colorado state bars; of those bars, only Wisconsin and Michigan are funded by mandatory dues.

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

Janus\Fleck

Ms. Welch provided the Board with an overview of the current status of *Fleck v Welch*, challenging the mandatory status of the State Bar of North Dakota, and the possible implications for 32 mandatory bars. The Supreme Court has relisted this case five times.

SBM is leading an effort to collect relevant data from all 32 mandatory bars on their regulatory and nonregulatory activities to determine how to collaborate on responding to the ongoing challenges to the mandatory bar.

The Board members discussed possible content of an amicus brief in *Fleck*.

LRS Update

Ms. Welch provided the Board with an overview of SBM's LRS program and provided some background information about the commercial lead generators. Our revamping of the classic lawyer referral system, operating within the objectives of the regulatory scheme, will not achieve its potential without significantly more resources to publicize and market the program.

Issues Related to Online Dues Processing

Ms. Welch reported that the Bar experienced a number of glitches in the new e-commerce system designed to collect member dues online. All of the members who experienced problems have been contacted and their issues resolved.

Mr. Horsch provided the Board with an update on the current dues payments, 96% of which have been made online.

A Lawyer Helps Pro Bono Honor Roll

Ms. Welch asked Mr. Mathis to review the "A Lawyer Helps Pro Bono Honor Roll" proposal with the Board. Mr. Mathis referenced the memo regarding the proposal provided in the Board materials. He described the Voluntary Pro Bono Standard as adopted by the RA. The Circle of Excellence, which recognized firms and corporations that demonstrated full compliance with the Voluntary Standard, was phased out in 2018. Beginning in 2019, the Access to Justice Campaign will recognize, on tiered recognition lists, individuals, law firms, and corporate legal departments that make significant total donations, as well as law firms that achieve a per-attorney average donation, of at least \$300, starting with tiered levels of \$300, \$500, \$750 or \$1,000 per lawyer. Also beginning in 2019, the ALH Pro Bono Honor Roll proposal, if adopted, will recognize, on tiered recognition lists, both individual Michigan attorneys who provide 30 or more hours of pro bono legal services in a calendar year and also law firms and corporations that achieve a per-attorney average of at least 30 hours of pro bono legal services in a calendar year, per the Voluntary Standard. The recognition lists will use tiered levels of 30, 50, and 100 hours. An online application will be available for individual attorneys, law firms, and corporations to submit pro bono service hours to the State Bar. A motion was offered and supported to adopt the proposal. The motion was approved.

Introduction of New Employee

Ms. Welch asked Ms. Goodrum-Goodrich to introduce Ms. Katherine Gardner, SBM's new UPL Counsel, to the Board members.

**Letter from Legal Services Association of Michigan**

Ms. Welch informed the Board that the co-chairs of the Access to Justice Policy Committee received a letter from the Legal Services Association of Michigan (LSAM). LSAM forwarded the letter to SBM for a response. Ms. Welch said that no action is required at this time, but asked the Board for input on how to respond to the letter. The Board requested that SBM refer the letter to all relevant sections and that staff create a template for relevant section liaisons to respond. Mr. Haroutunian asked that the definition of "Low-Income Consumer" be clarified.

**Representative Assembly (RA) Report**, Richard L. Cunningham, Chairperson.

Mr. Cunningham reviewed the items that were addressed at the RA's September 26, 2018 meeting. The RA adopted a resolution in support of the creation of a Task Force on Structure and Governance of the State Bar. The Board approved the same resolution at its September 26, 2018 meeting.

The RA passed an amendment to its Permanent Rules of Procedures to allow for the RA to conduct virtual meetings. A motion was offered and supported to approve an amendment to Article IV, Section 6 of the Bylaws of the State Bar of Michigan to allow for the RA to conduct virtual meetings. The motion was approved.

**Young Lawyers Section (YLS) Report**, Kara R. Hart-Negrich, Chairperson

Ms. Hart-Negrich provided the Board with an update on some of the recent activities of the YLS and reported that as required in their bylaws, an YLS bylaw review committee has been created. She reported that the Annual YLS Summit will take place in June in Detroit.

**Michigan State Bar Foundation**

Ms. Jennifer Bentley provided the Board with an update on the Access to Justice Campaign, which is a partnership with the State Bar of Michigan and Legal Aid providers in Michigan. After a review of the Campaign and national research on best practices, during the past year, it was decided to institute a collaborative centralized campaign that will raise money for fifteen statewide programs, down from the forty-five programs. She stated that there will be an email sent from President Grieco and Mr. Pappas, Chair of the State Bar Foundation, to all SBM members asking for year-end donations. Ms. Bentley indicated that there will be three donor lists published that will show firms, members and corporate donations and that additional information can be found at [atjfund.org/champions](http://atjfund.org/champions).

## COMMISSIONER COMMITTEES REPORTS

**Finance**, James W. Heath, Chairperson

Mr. Heath reported that at the committee meeting this morning, Mr. Horsch provided the members with an overview of the responsibilities and duties of the committee members and thanked the former Chair, Ms. Warnez, and returning members, Mr. Hohausser, Ms. Rebeck, and Mr. Ulrich, for their assistance as well. Mr. Heath reviewed the FY 2018 financial reports and asked Mr. Horsch to review the FY 2018 financial results and trends. Mr. Horsch provided a PowerPoint presentation of the information.

**Audit**, James W. Heath, Chairperson

Mr. Heath reported that the auditors have completed their review of the financial status of the Bar and that the Audit Committee will meet with them in December to review the final audit report. He stated

**Professional Standards**, Dana M. Warnez, Chairperson

Ms. Warnez reported that the Professional Standards Committee met and were provided with an overview of the committee's duties as it relates to Character and Fitness, the Judicial Qualifications Committee, and the Client Protection Fund. She stated that other than the action item already approved on the consent agenda, there were no further items to come before the Board.

**Communications and Member Services**, Robert J. Buchanan, Chairperson  
**2018 SBM NEXT Conference Summary**

Mr. Buchanan stated that there was an event summary of the NEXT Conference 2018 included in the Board materials.

**Communications & Member Services Committee Jurisdiction Revision**

Mr. Buchanan told the Board that in July 2018, the Board had approved in principle a revision to the jurisdiction statement of the Communications and Member Services Committee, and now asked the Board to approve language changes to that statement, confirming the committee's jurisdiction over all requests to establish new State Bar sections, all requests to amend existing section bylaws and dues structures, and all proposals to discontinue existing State Bar sections. A motion was offered and supported to approve the revised jurisdiction statement. The motion carried.

**Michigan Bar Journal Plain Language Column**

Mr. Buchanan reviewed the SBM's overview of the State Bar's policy on SBM Awards and asked the Board to approve the continuation of the plain language column editing award that is included each month in the *Michigan Bar Journal*. A motion was offered and supported to approve the continuation of the *Michigan Bar Journal's* Plain Language column editing contest. The motion was approved.

**Public Policy**, Dennis M. Barnes, Chairperson  
**Court Rules**

**ADM File No. 2016-27: Proposed Amendment of MRPC 7.2**

The proposed amendment of MRPC 7.2 would require media lawyer advertisements to identify the name and contact information of at least one lawyer providing services. This proposal is being republished in light of the ABA's recent adoption of revisions of the model rules regarding attorney advertising.

A motion was offered and supported to support the language adopted by the Court on May 30, 2018 as preferred over the language proposed on September 27, 2018. The motion was approved.

**ADM File No. 2016-05: Proposed Amendment of MCR 2.513**

The proposed amendment of MCR 2.513 would explicitly provide that a court must orally recite its preliminary and final jury instructions for the jury (in addition to providing them in writing). The proposed amendment would clarify that even though a juror is entitled to a written set of instructions, the judge must still orally instruct the jury. This proposed amendment would conform the rule to the opinion issued by the Court in *People v Traver*.

A motion was offered and supported to approve the proposed amendment. The motion was approved.

**ADM File No. 2018-21: Proposed Administrative Order to Require Courts to Establish Security Committees**

This administrative order would direct courts to establish a standing courthouse security committee to be chaired by the chief judge or his/her designee. The attached appendix is a proposed model local administrative order developed by the SCAO.

A motion was offered and supported to approve the proposed amendment. The motion was approved.

**ADM File No. 2002-37: Proposed Amendments of MCR 1.109, 2.102, 2.104, 2.106, 2.107, 2.117, 2.119, 2.403, 2.503, 2.506, 2.508, 2.518, 2.602, 2.603, 2.621, 3.101, 3.104, 3.203, 3.205, 3.210, 3.302, 3.607, 3.613, 3.614, 3.705, 3.801, 3.802, 3.805, 3.806, 4.201, 4.202, 4.303, 4.306, 5.001, 5.104, 5.105, 5.107, 5.108, 5.113, 5.117, 5.118, 5.119, 5.120, 5.125, 5.126, 5.132, 5.162, 5.202, 5.203, 5.205, 5.302, 5.304, 5.307, 5.308, 5.309, 5.310, 5.311, 5.313, 5.402, 5.404, 5.405, 5.409, 5.501, and 5.784 and new rule 3.618**

The proposed amendments are an expected progression necessary for design and implementation of the statewide electronic-filing system. These particular amendments will assist in implementing the goals of the project.

A motion was offered and supported to encourage the Court in its work developing and implementing a statewide electronic-filing system, take no position on the proposed amendments, to forward the comments received from the committees and sections to the Court, and to authorize the Alternative Dispute Resolution and Probate & Estate Planning sections to advocate their positions. The motion was approved.

**Legislation**

**HB 6110** (Iden) Occupations; individual licensing and regulation; use of criminal record to determine eligibility for occupational licensing; restrict. Amends title & secs. 1, 2, 3, 4, 5, 6 & 7 of 1974 PA 381 (MCL 338.41 et seq.).

A motion was offered and supported that this bill is Keller permissible in the regulation and discipline of attorneys, lawyer competency, and integrity of the legal profession. The motion was approved.

A motion was offered and supported to request an amendment that the bill not apply to the licensing of attorneys. The motion was approved. Mr. Weber abstained.

**HB 6277** (LaFave) Courts; judges; judges to fully instruct jury of its authority; require. Amends 1927 PA 175 (MCL 760.1 - 777.69) by adding sec. 29b to ch. VIII.

A motion was offered and supported that this bill is Keller permissible in affecting the functioning of the courts. The motion was approved.

A motion was offered and supported to oppose the bill. The motion was approved. Mr. Weber abstained.



**SB 1092** (Jones) Courts; juries; postponement of jury service; allow for farmers during certain months. Amends sec. 1335 of 1961 PA 236 (MCL 600.1335).

A motion was offered and supported that this bill is Keller permissible in affecting the functioning of the courts. The motion was approved.

A motion was offered and supported to oppose the bill. The motion was approved. Mr. Weber abstained.

**SB 1103** (Jones) Civil procedure; small claims; general amendments related to e-filing provisions; provide for. Amends secs. 8401a, 8402, 8403, 8404, 8405, 8406, 8409, 8412, 8420 & 8423 of 1961 PA 236 (MCL 600.8401a et seq.).

A motion was offered and supported that this bill is Keller permissible in affecting the functioning of the courts. The motion was approved.

A motion was offered and supported to support the bill. The motion was approved. Mr. Weber abstained.

## **OTHER REPORTS**

### **American Bar Association (ABA) Report**

Mr. Ulrich reported that the ABA Mid-year in taking place in January in Las Vegas with only one day scheduled for the meeting of the House of Delegates. He reported on the activities of the Legal Assistance for Military Personnel committee that he is a member of and mentioned that there are three Gold Star families around the board table.

## **FOR THE GOOD OF THE PUBLIC AND THE PROFESSION**

### **Comments or Questions from Commissioners**

Mr. Haroutunian asked Ms. Welch about the status of CloudLaw and Ms. Welch reported that there are no new developments.

Mr. Ulrich inquired about the possibility of providing new digital recording equipment to the chairs of the Character and Fitness panels. Ms. Goodrum-Garland reported that she would look into the request.

Mr. Buchanan reminded the Commissioners that each Board member had received the 2019 Award nomination brochure and asked that each Board member reach out to those sections and affinity bars that they are affiliated with and ask for nominations.

### **Comments or Questions from the Public**

There were none.

### **Adjournment**

The meeting was adjourned at 12:30 p.m.

President Grieco called the teleconference meeting of the Board to order at 4:05 p.m. on December 4, 2018.

Commissioners present:

David C. Anderson  
Dennis M. Barnes, President-Elect  
Joseph J. Baumann  
Aaron V. Burrell  
Hon. Clinton Canady III  
B.D. "Chris" Christenson  
Richard L. Cunningham  
Syeda F. Davidson  
Josephine A. DeLorenzo  
Shauna L. Dunning  
Andrew F. Fink III  
Jennifer M. Grieco, President  
Lisa J. Hamameh  
Edward L. Haroutunian

Michael S. Hohaus  
Thomas H. Howlett  
E. Thomas McCarthy Jr.  
Joseph P. McGill  
Hon. David A. Perkins  
Barry R. Powers  
Daniel D. Quick  
Victoria A. Radke  
Chelsea M. Rebeck  
Gregory L. Ulrich  
Dana M. Warnez, Secretary  
Erane C. Washington  
Travis W. Weber  
Ryan Zemke

Commissioners absent and excused:

Danielle Mason Anderson  
Robert J. Buchanan, Vice President

Kara R. Hart-Negrich  
James W. Heath, Treasurer

State Bar Staff present:

Janet Welch, Executive Director  
Marge Bossenbery, Executive Coordinator  
Peter Cunningham, Assistant Executive Director and Director, Governmental Relations  
Kathryn Hennessey, Public Policy Counsel  
Carrie Sharlow, Administrative Assistant

Legislation

SB 1182 and SB 1183

Loser-Pay Legislation

**SB 1182** (Shirkey) Civil procedure; costs and fees; attorney fees; require award to prevailing party. Amends 1961 PA 236 (MCL 600.101 - 600.9947) by adding sec. 2443.

**SB 1183** (Shirkey) Civil procedure; costs and fees; attorney fee awards in frivolous civil actions; modify. Amends secs. 2445 & 2591 of 1961 PA 236 (MCL 600.2445 & 600.2591) & adds sec. 2446.

A motion was offered and supported that the legislation is Keller permissible because it affects the availability of legal services to society. A roll call vote was taken and the motion was approved.

Roll Call Vote

Ayes: Anderson, David, Barnes, Burrell, Canady, Christenson, Cunningham, Davidson, DeLorenzo, Dunning, Grieco, Haroutunian, Hohaus, Howlett, McCarthy, McGill, Perkins, Powers, Quick, Radke, Rebeck, Ulrich, Warnez, Washington, and Zemke

Nays: Baumann, Fink, Hamameh, Weber

A motion was offered and supported to oppose this legislation. A roll call vote was taken and the motion was approved.

Roll Call Vote

Ayes: Anderson, David, Barnes, Burrell, Canady, Christenson, Cunningham, Davidson, DeLorenzo, Dunning, Grieco, Haroutunian, Hohaus, Howlett, McCarthy, McGill, Perkins, Powers, Quick, Radke, Rebeck, Ulrich, Warnez, Washington, and Zemke

Nays: Baumann, Fink

Abstention: Weber

(Commissioner Hamameh was not on the call when this vote was taken.)

The meeting was adjourned at 5:00 p.m.

**State Bar of Michigan**  
**Executive Committee Conference Call**  
**Wednesday, November 7, 2018**  
**4:00 p.m.**

**Call to Order:** President Grieco called the meeting to order at 4:07 p.m.

**Members Present:** President Jennifer M. Grieco, President-Elect Dennis M. Barnes, Vice President Robert J. Buchanan, Secretary Dana M. Warnez, Treasurer James W. Heath, Representative Assembly Chair Richard L. Cunningham, and Commissioners Daniel D. Quick and Erane C. Washington.

**Members Absent:** Representative Assembly Vice-Chair Aaron V. Burrell and Commissioner Syeda F. Davidson.

**State Bar Staff Present:** Janet Welch, Executive Director; Margaret Bossenbery, Executive Coordinator; Gregory Conyers, Director of Diversity; Candace Crowley, Senior Consultant; Peter Cunningham, Assistant Executive Director and Director of Governmental Relations; Darin Day, Director of Outreach & Constituent Development; Clifford Flood, General Counsel; Danon Goodrum-Garland, Director of Professional Standards; Kathryn Hennessey, Public Policy Counsel; James Horsch, Director of Finance & Administration; Robert Mathis, Pro Bono Service & Justice Initiatives Counsel; Kari Thrush, Assistant Div. Director-Member Services; and Anne Vrooman, Director of Research & Development.

**Approval of October 9, 2018 meeting minutes**

A motion was made and seconded to approve the October 9, 2018 Executive Committee meeting minutes. The motion passed. Mr. Buchanan abstained.

**President's Report**

President Grieco reported on her attendance at the Great Rivers Conference last week along with Mr. Barnes and Ms. Welch. There was great feedback on her presentation on how bars can better collaborate, and the information exchanged by the bar executives was valuable. Ms. Grieco also reported on the Professionalism Summit that was held on October 18, 2018 at the Hall of Justice, spearheaded by former State Bar president Ed Pappas. The summit discussed ways to improve civility and professionalism in the legal profession, and there are plans for following up on the discussion points, ideas and suggestions from that summit. In addition, Ms. Grieco will be writing an article on professionalism and civility for the December Bar Journal.

Ms. Grieco reported on the Governance Task Force. A governance consulting proposal from Association Management Consultants (AMC) was received, and she, along with RA Chair Cunningham and staff, will be discussing the cost and task force composition for this effort that is planned to begin in January.

Ms. Grieco also noted that new commissioner orientation will be held at her office next Monday November 12, 2018, and reported on some changes to the November 16 BOC agenda. The leadership reports on the agenda have been moved to the beginning to promote more discussion; Jennifer Bentley, Executive Director of the Michigan State Bar Foundation, will be discussing the

ATJ campaign; and under Ms. Welch's report, the FY 2019 goals update will be moved to the January meeting.

### **Representative Assembly Chair's Report**

Representative Assembly Chair Cunningham reported that the RA committees are in place, there are 21 vacancies that are being handled by the Nominating Committee, and a motion will be made at the November BOC meeting to support a change in rules for electronic meetings of the RA (already approved by the RA).

### **Executive Director's Report**

Ms. Welch reported that the U.S. Supreme Court again relisted the cert petition for *Fleck v. Wetch*.

Mr. Horsch provided an update on dues processing and noted that close to 50% of the dues have been paid or processed online and awaiting payment, which is behind this time last year due to our late start. However, the number of members using the online site to handle their dues renewal so far is 95%, which is over 50% higher than last year at this time. Mr. Horsch also provided a FY 2018 financial update and noted that we will be ahead of budget and that the accounting changes will increase our net position. A full report will be provided at the BOC meeting.

Ms. Welch reported on a member request to publish a rebuttal to a disciplinary matter in the *Michigan Bar Journal*.

### **Communications and Member Services Committee – Jurisdiction Revision**

Mr. Day provided the background from his memo provided to the EC on this proposed revision to this commissioner committee's jurisdiction. The recommended changes will clarify the committee's role in handling requests for new SBM sections, handling proposals for discontinuing an existing SBM section, and handling revisions to section bylaws and dues structures. Ms. Grieco offered additional support for this revision, and the EC supported the concept. The commissioner committee will be developing criteria and have more discussion prior to the proposal going to the BOC.

### **ALH Pro Bono Honor Roll**

Mr. Mathis reported on the "A Lawyer Helps Pro Bono Honor Role" recognition proposal. He explained the background and the rationale for this new recognition program, and answered questions. Currently, the "Circle of Excellence" for pro bono service recognizes law firms, but this proposal will recognize individual attorneys. He requested the EC to vote to approve the proposal to go to the BOC for consideration. After discussion, a motion was made and seconded to recommend the ALH Pro Bono Honor Role proposal go to the BOC. The motion passed.

### **ADM 2002-37/2018-20 – Establish a uniform procedure regarding the determination of indigency for waiver of fees**

Mr. Barnes and Ms. Hennessey provided background information on this fee waiver issue, including an explanation of each alternative and the previous positions of SBM committees and the BOC on this matter. This proposal has an expedited timeframe to have comments submitted by November 9 due to the Supreme Court's schedule for the electronic filing proposal, and the SBM cannot conduct a virtual meeting to provide the SBM's position. After discussion, it was moved and seconded to provide the previous comments (Alternative C) and request that the proposal be published for public comment. The motion passed.

**November 16, 2018 Board Meeting Agenda**

This item was already discussed under the President's report. A motion was made and seconded to approve the modifications to the agenda. The motion passed.

**Other**

Ms. Warnez recognized President Grieco for the wonderful President's reception enjoyed by everyone in attendance.

**Adjournment**

There being no further business for the Executive Committee, President Grieco adjourned the meeting at 5:06 p.m.

Submitted by James C. Horsch  
December 7, 2018

**State Bar of Michigan**  
**Executive Committee Conference Call**  
**Tuesday, December 11, 2018**  
**4:00 p.m.**

**Call to Order:** President Grieco called the meeting to order at 4:04 p.m.

**Members Present:** President Jennifer M. Grieco, President-Elect Dennis M. Barnes, Secretary Dana M. Warnez, Treasurer James W. Heath, Representative Assembly Chair Richard L. Cunningham, Representative Assembly Vice-Chair Aaron V. Burrell, and Commissioners Syeda F. Davidson, Daniel D. Quick, and Erane C. Washington.

**Members Absent:** Vice President Robert J. Buchanan.

**State Bar Staff Present:** Janet Welch, Executive Director; Margaret Bossenbery, Executive Coordinator; Nancy Brown, Director of Member and Communication Services; Candace Crowley, Senior Consultant; Peter Cunningham, Assistant Executive Director and Director of Governmental Relations; Danon Goodrum-Garland, Director of Professional Standards; James Horsch, Director of Finance & Administration; Kari Thrush, Assistant Div. Director-Member Services; and Anne Vrooman, Director of Research & Development.

**Approval of November 7, 2018 meeting minutes**

A motion was made and seconded to approve the November 7, 2018 Executive Committee meeting minutes. The motion passed.

**President's Report**

President Grieco reported on the Governance Task Force. Ms. Grieco and RA Chair Cunningham had a conference call with the consultant; they will work on the size and parameters of the engagement, which is expected to begin in January.

Ms. Grieco also reported on the December *Michigan Bar Journal* article on civility and professionalism that followed from the Civility & Professionalism Summit. Hopefully members will read it and take action.

Finally, Ms. Grieco reported on an issue raised by a member to staff concerning ethics and advertising. Ms. Welch noted the difficulty that bars have with the ethics rules concerning advertising, and that this is new territory in the profession. The advertising issue needs to be part of a broader overall look at regulatory objectives, and how advertising fits into the regulatory process, for which more specific guidance needs to be developed through a new task force. The ethics and advertising issues will best be handled through the formulation of a task force. Surveying the membership at large on regulatory objectives in advance of task force work is not advisable.

**Representative Assembly Chair's Report**

Representative Assembly Chair Cunningham reported that the RA will be holding a Nominating Committee meeting next week and will be filling vacant RA seats.

### **Executive Director's Report**

Mr. Horsch provided an update on dues processing and noted that during the last week in November we had over \$2 million in online dues payments and on the last day before the late fee penalty we received over \$600,000 in online dues payments. As of today, 92% of members have paid their dues and 8% are unpaid. He anticipates late fees this dues year will be about the same as last year. A total of 94% of members have paid or processed their dues online, which is a 50% higher online rate than last year. The IT team is addressing continuing e-commerce issues such as the ability for members to make unintentional duplicate dues payments and issues with the jurisdiction data entry screen. Our next steps are to hire an IT consultant to perform a tech audit, for staff to assess this year's dues billing and payment process, and plan for improvements for next year.

Mr. Cunningham provided an update on the lame duck session in the Michigan Legislature. He noted this was the busiest lame duck in modern memory and reviewed the status of bills still active in the session that are of interest to the SBM.

Ms. Welch reported on a conference call meeting she organized and led with executive directors from 24 of the 32 mandatory bar states to discuss responses to the Fleck v. Wetch lawsuit challenging the State Bar of North Dakota. Like Michigan, some states have begun to look at this issue strategically, although not all bars are being proactive on the issue. Ms. Welch is meeting with appellate counsel on an amicus brief that could be submitted to the 8<sup>th</sup> circuit. Ms. Welch also noted she has had conversation with some of the justices on Fleck v. Wetch, advising them of SBM's probable amicus filing.

### **Annual Meeting Transition**

Ms. Grieco opened the discussion and noted the key issues from the staff memo concerning the future direction of the annual meeting, given the overall cost of the event and the relatively small number of members in attendance. Ms. Thrush reviewed the information and recommendations from the annual meeting transition memo and answered questions from the EC members. The group discussed the need for planning for the next annual meeting and for the longer term. Ms. Thrush noted that decisions need to be made by January for any changes to the September annual meeting (transition year). Mr. Barnes would like to meet with the Member Services Committee to discuss and recommend to the BOC at its January meeting any changes to the next annual meeting. The EC suggested that more information is needed concerning the overall total cost of the annual meeting not in the annual meeting budget (diversity reception, BOC, RA, awards banquet, etc.), the cost for section meeting space absorbed in the annual meeting budget, impact on sections, and cancellation cost mitigation if a change is made for the next annual meeting. Some EC members expressed agreement with the strategy of reducing the cost and event length of the annual meeting longer term. This topic will be discussed further at the next EC meeting.

### **Barristers' Ball Tickets**

Ms. Bossenbery reported that the Wolverine Bar Barristers' Ball will be held on April 6, 2019 and that we need to plan on the number attending. The cost for a table with 10 tickets is \$1,125. After discussion, a motion was made and seconded to purchase tickets for two tables for the event. The motion passed.

### **Other**

Ms. Grieco wished everyone on the call happy holidays.



**Adjournment**

There being no further business for the Executive Committee, President Grieco adjourned the meeting at 5:12 p.m.

Submitted by James C. Horsch  
January 3, 2019

**President Jennifer M. Grieco  
President's Activities  
November 16, 2018 through January 18, 2019**

Date	Event	Location
November 20	Retirement party for Oakland County Circuit Judge Wendy Potts	Birmingham
November 26	Conference call with Janet Welch, Dana Warnez, and Darin Day	Birmingham
November 29	Detroit Bar Association Jingle Mingle Holiday Celebration	Detroit
December 4	Board of Commissioners Public Policy Conference call	Birmingham
December 5	Federal Bar Association New Lawyers Orientation	Detroit
December 5	Federal Bar Association Holiday party	Detroit
December 6	Oakland Count Bar Foundation Holiday Gala	Birmingham
December 11	State Bar of Michigan (SBM) Executive Committee conference call	Birmingham
December 12	Professional Education and Events Committee conference call	Birmingham
December 13	Black Women Lawyers Association of Michigan Holiday Sip	Detroit
December 17	Miller Canfield Holiday party	Detroit
December 18	Holiday Gathering with Former SBM President Reggie Turner and Guests	Detroit
December 20	Communications and Member Services Committee conference call	Birmingham
December 20	Wolverine/Straker Bar Associations Holiday party	Detroit
January 3	Western Michigan University Cooley Law School Professionalism event	Auburn Hills
January 4	Investiture of Hon. Shauna Dunnings	Lansing
January 5	"Your Best Chance, with Judge Nance" radio show with Judge Debra Nance	Southfield
January 8	SBM Executive Committee conference call	Birmingham

Date	Event	Location
January 8	Meeting with FBI, Lakeshore, Oakland County, and Straker Bar Associations regarding Human Trafficking pro bono and training	Birmingham
January 9	Women Lawyers Association of Michigan meeting	Bloomfield Township
January 10	"Practical Law" television show with Harry Gornbein	Birmingham
January 18	SBM Board of Commissioners meeting	Lansing

**Executive Director Janet K. Welch**  
**Executive Director's Activities**  
**November 16, 2018 through January 18, 2019**

Date	Event	Location
November 26	Call with Jennifer Grieco	
November 28	Call with National Conference of Bar Presidents (NCBP) Virtual Session Presenters	
November 28	Portrait Unveiling, Justice Robert P. Young Jr.	Lansing
November 29	Conference call with Cloud Law	Lansing
December 3	Conference call with NCBP Workshop Presenters, "Unified Bar Issues"	Lansing
December 4	Board of Commissioners Public Policy Conference Call	
December 4	Conference call with Sebrina Barrett, Executive Director, Missouri Bar Association	
December 4	Conference call with John Williams, Executive Director, Oklahoma State Bar	
December 4	Conference call with TDS	
December 6	Conference call with Tony Weiler, Executive Director, State Bar Association of North Dakota	
December 6	Conference call with William Hornsby, Counsel for the ABA Standing Committee on the Delivery of Legal Services	
December 10	Conference call with Mandatory Bar Executive Directors	
December 11	SBM Executive Committee Conference call	
December 12	Conference call with attorney John Bursch	
December 12	Conference call with John Phelps, Executive Director, Arizona Bar Association	
December 17	Conference call with Helen Desmond McDonald, Executive Director, Rhode Island Bar Association	
December 17	Conference call with Tony Weiler, Executive Director, State Bar Association of North Dakota	
December 17	Conference call with Mark Engle	

Date	Event	Location
December 18	Integrated Technology Committee meeting	
December 20	Conference call with attorney Mary Massaron	Lansing
December 20	Conference call with CloudLaw	Lansing
December 20	Conference call with Trey Apffel, Executive Director, State Bar of Texas	Lansing
December 21	Conference call with Robert Spagnoletti, Executive Director, District of Columbia Bar Association	Lansing
December 21	Conference call with Robert Craghead, Executive Director, Illinois Bar Association	Lansing
December 21	Conference call with Joshua Doyle, Executive Director, The Florida Bar	Lansing
December 21	Conference call with General Counsel's Office, State Bar of California	Lansing
December 21 – January 2	Emergency SBM phone line	East Lansing
January 2	Conference call with Judge Michael Warren	Lansing
January 4	Investiture for Judge Shauna Dunnings	Lansing
January 7	Presenter, NCBP Virtual Session: 21st Century Lawyer: What Comes Next for Unified Bars?	Lansing
January 8	SBM Executive Committee meeting	Lansing
January 15	Presenter, NABE Virtual Session: Issues and Challenges in 2019	Lansing
January 16	Meeting with SBM and Michigan Bar Foundation	Lansing
January 17	Integrated Technology Committee meeting	Lansing
January 18	SBM Board of Commissioners meeting	Lansing



**FROM THE COMMITTEE  
ON MODEL CRIMINAL  
JURY INSTRUCTIONS**

=====

The Committee solicits comment on the following proposal by April 1, 2019. Comments may be sent in writing to Samuel R. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to [MCrimJI@courts.mi.gov](mailto:MCrimJI@courts.mi.gov) .

=====

**PROPOSED**

The Committee proposes amending Paragraph (6) of M Crim JI 3.11, the Composite Instruction that explains the deliberative process to the jury. The amendment attempts to clarify the instruction, to reduce the court's housekeeping obligations to provide the names of different offenses that a jury may be considering, and to make it easier for judges to read. Deletions are in strike-through, and new language is underlined.

**[AMENDED]                      M Crim JI    3.11 Deliberations and Verdict**

- (1) When you go to the jury room, you will be provided with a written copy [copies] of the final jury instructions. [A copy of electronically recorded instructions will also be provided to you.] You should first choose a foreperson. The foreperson should see to it that your discussions are carried on in a businesslike way and that everyone has a fair chance to be heard.
- (2) During your deliberations please turn off your cell phones or other communications equipment until we recess.
- (3) A verdict in a criminal case must be unanimous. In order to return a verdict, it is necessary that each of you agrees on that verdict. In the jury room you will discuss the case among yourselves, but ultimately each of you will have to make up your own mind. Any verdict must represent the individual, considered judgment of each juror.
- (4) It is your duty as jurors to talk to each other and make every reasonable effort to reach agreement. Express your opinions and the reasons for them, but keep an open mind as you listen to your fellow jurors. Rethink your opinions

and do not hesitate to change your mind if you decide you were wrong. Try your best to work out your differences.

(5) However, although you should try to reach agreement, none of you should give up your honest opinion about the case just because other jurors disagree with you or just for the sake of reaching a verdict. In the end, your vote must be your own, and you must vote honestly and in good conscience.

*[Use the next paragraph when there are less serious included crimes:]*

~~(6) In this case, there are several different crimes that you may consider. When you discuss the case, you must consider the crime of {name principal charge} first. { I have already given you instructions regarding a lesser offense. As to any count which includes a lesser offense, you must first consider the principal offense. If you all agree that the defendant is guilty of that crime, you may stop your discussions and return your verdict you need not consider the lesser offense.} If you believe that the defendant is not guilty of {name principal charge} the principal offense or if you cannot agree about on that crime offense, you should may consider the less serious crime of {name less serious charge} lesser offense. {You decide how long to spend on (name principal charge) before discussing (name less serious charge). You can go back to (name principal charge) after discussing (name less serious charge) It is up to you to decide how long to consider the principal offense before discussing the lesser offense. You may go back to consider the principal offense again after discussing the lesser offense, if you want to.}~~

(7) If you have any questions about the jury instructions before you begin deliberations, or questions about the instructions that arise during deliberations, you may submit them in writing in a sealed envelope to the bailiff.

*Use Note*

~~This instruction should be given after the attorney's closing arguments regardless of whether the jury instructions are given before or after closing argument.~~

Paragraph (6) of this instruction is only used ~~the approved form~~ when the jury is instructed on less serious crimes. *See People v Handley*, 415 Mich 356, 329 NW2d 710 (1982). The remainder of the instruction should be given in every case.



**Public Policy Position  
M Crim JI 3.11**

**Support as Written**

**Position Vote:**

Voted For position: 10

Voted against position: 0

Abstained from vote: 0

Did not vote: 7

**Contact Persons:**

Sofia V. Nelson [snelson@sado.org](mailto:snelson@sado.org)

Michael A. Tesner [mtesner@co.geneseec.mi.us](mailto:mtesner@co.geneseec.mi.us)





**FROM THE COMMITTEE  
ON MODEL CRIMINAL  
JURY INSTRUCTIONS**

=====  
The Committee solicits comment on the following proposal by January 1, 2019. Comments may be sent in writing to Samuel R. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to [MCrimJI@courts.mi.gov](mailto:MCrimJI@courts.mi.gov) .  
=====

**PROPOSED**

The Committee proposes amending M Crim JI 3.29, 3.30, and 3.31, the jury verdict forms used for multiple counts with and without insanity defenses and lesser offenses, because the current forms fail to provide a general “not guilty” option for each charged count. See *People v Wade*, 283 Mich App 462 (2009). Deletions are in strike-through, and new language is underlined.

**M Crim JI 3.29 Verdict Form (Insanity Defense)**

Defendant:

\_\_\_\_\_

**POSSIBLE VERDICTS:**

You may return only one verdict on ~~this~~ each charge. Mark ~~only~~ one verdict ~~on this sheet~~ for each count.

~~\_\_\_~~ Not Guilty

~~\_\_\_~~ Not Guilty by Reason of Insanity

Count 1

\_\_\_ Not Guilty

\_\_\_ Not Guilty by Reason of Insanity

\_\_\_ Guilty but Mentally Ill of \_\_\_\_\_

\_\_\_ Guilty of \_\_\_\_\_

Count 2

\_\_\_ Not Guilty

\_\_\_ Not Guilty by Reason of Insanity

\_\_\_ Guilty but Mentally Ill of \_\_\_\_\_

\_\_\_ Guilty of \_\_\_\_\_

**M Crim JI 3.30 Verdict Form (Lesser Offenses)**

Defendant: \_\_\_\_\_

**POSSIBLE VERDICTS:**

You may return only one verdict on ~~this~~ each charge. Mark ~~only one box on this sheet~~ verdict for each count.

~~\_\_\_~~ Not Guilty

Count 1

~~\_\_\_~~ Not Guilty

~~\_\_\_~~ Guilty of \_\_\_\_\_

Count 2

~~\_\_\_~~ Not Guilty

~~\_\_\_~~ Guilty of \_\_\_\_\_

Guilty of the Lesser Offense of:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**M Crim JI 3.31 Verdict Form (Insanity Defense with Lesser Offenses)**

Defendant: \_\_\_\_\_

**POSSIBLE VERDICTS:**

You may return only one verdict on ~~this~~ each charge. Mark ~~only~~ one verdict ~~on this sheet~~ for each count.

~~\_\_\_~~ ~~Not Guilty~~

~~\_\_\_~~ ~~Not Guilty by Reason of Insanity~~

Count 1

\_\_\_ Not Guilty

\_\_\_ Not Guilty by Reason of Insanity

\_\_\_ Guilty but Mentally Ill of \_\_\_\_\_

\_\_\_ Guilty of \_\_\_\_\_

Count 2

\_\_\_ Not Guilty

\_\_\_ Not Guilty by Reason of Insanity

\_\_\_ Guilty but Mentally Ill of \_\_\_\_\_

\_\_\_ Guilty of \_\_\_\_\_

\_\_\_ Guilty but Mentally Ill of the Lesser Offense of \_\_\_\_\_

\_\_\_ Guilty of the Lesser Offense of \_\_\_\_\_

**Public Policy Position**  
**Model Criminal Jury Instructions**  
**3.29, 3.30, and 3.31**

**SUPPORT WITH AMENDMENT**

**Explanation:**

The committee voted unanimously to support M Crim JI 3.29, 3.30, and 3.31 with an amendment to 3.30 including the section of “Guilty of the Lesser Offense of:” under “Count 1.”

**Position Vote:**

Voted For position: 12

Voted against position: 0

Abstained from vote: 0

Did not vote: 5

**Contact Persons:**

Sofia V. Nelson

[snelson@sado.org](mailto:snelson@sado.org)

Michael A. Tesner

[mtesner@co.geneseee.mi.us](mailto:mtesner@co.geneseee.mi.us)

**Public Policy Position**  
**M Crim JI 3.29, 3.30, and 3.31**

**Support**

**Explanation:**

Support to add 'Not Guilty' on the verdict form of cases where insanity defenses used. See People v Wade 283 Mich App 462 (2009).

**Position Vote:**

Voted For position: 17

Voted against position: 0

Abstained from vote: 0

Did not vote: 7

**Contact Person:** Judge Hugh B. Clarke, Jr.

**Email:** [hugh.clarke@lansingmi.gov](mailto:hugh.clarke@lansingmi.gov)



**FROM THE COMMITTEE  
ON MODEL CRIMINAL  
JURY INSTRUCTIONS**

=====

The Committee solicits comment on the following proposal by May 1, 2019. Comments may be sent in writing to Samuel R. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to [MCrimJI@courts.mi.gov](mailto:MCrimJI@courts.mi.gov) .

=====

**PROPOSED**

The Committee proposes a new instruction, M Crim JI 7.25, for use where a defendant interposes a self-defense claim to a felon-in-possession-of-a-firearm charge as permitted under *People v Dupree*, 486 Mich 693 (2010).

**[NEW]            M Crim JI 7.25            Self-Defense as Defense to Felon in Possession of a Firearm**

(1) The defendant claims that [he / she] possessed the firearm in order to act in lawful [self-defense / defense of \_\_\_\_\_]. A person may possess a firearm to defend [himself / herself / another person] under certain circumstances, even where it would otherwise be unlawful for [him / her] to possess the firearm. If a person possesses a firearm to act in lawful [self-defense / defense of others], [his / her] actions are excused, and [he / she] is not guilty of being a felon in possession of a firearm.

(2) Just as when considering the claim of self-defense to the charge of [*identify principal assaultive charge to which the defendant is asserting self-defense*], you should consider all the evidence and use the following rules to decide whether the defendant possessed a firearm to act in lawful [self-defense / defense of \_\_\_\_\_]. You should judge the defendant's conduct according to how the circumstances appeared to [him / her] at the time [he / she] acted.

(3) First, when [he / she] acted, the defendant must have honestly and reasonably believed that [he / she] had to possess a firearm to protect [himself / herself] from the imminent unlawful use of force by another. If [his / her] belief was honest and reasonable, [he / she] could act to defend [himself / herself / \_\_\_\_\_] with a firearm, even if it turns out later that [he / she] was wrong about how much danger [he / she / \_\_\_\_\_] was in.

(4) Second, a person is only justified in possessing a firearm when necessary at the time to protect [himself / herself / \_\_\_\_\_] from danger of death or serious injury. The defendant may only possess a firearm if it is appropriate to the attack made and the circumstances as [he / she] saw them. When you decide whether the possession of the firearm was what seemed necessary, you should consider whether the defendant knew about any other ways of protecting [himself / herself], but you may also consider how the excitement of the moment affected the choice the defendant made.

(5) Third, at the time [he / she] possessed the firearm, the defendant must not have been engaged in a criminal act that would tend to provoke a person to try to defend [himself / herself] from the defendant.<sup>1</sup>

*Use Note*

1. This paragraph should be given only when supported by the facts; that is, where there is evidence that, at the time the defendant used deadly force, he or she was engaged in the commission of some crime likely to lead to the other person's assaultive behavior. For example, this paragraph is usually unwarranted if the defendant was engaged in a drug transaction and used force in self-defense against an unprovoked attack by the other party in the transaction. See *People v Townes*, 391 Mich 578, 593; 218 NW2d 136 (1974). On the other hand, this paragraph *would* apply to a defendant who engaged in a robbery of another person and that other person reacted with force. This paragraph is unnecessary if there are no issues other than who was the aggressor in the situation, whether defendant had an honest and reasonable belief of the use of imminent force by another, or whether the degree of force used was necessary.





**Public Policy Position  
M Crim JI 7.25**

**Support as Written**

**Position Vote:**

Voted For position: 10

Voted against position: 0

Abstained from vote: 0

Did not vote: 7

**Contact Persons:**

Sofia V. Nelson [snelson@sado.org](mailto:snelson@sado.org)

Michael A. Tesner [mtesner@co.geneseec.mi.us](mailto:mtesner@co.geneseec.mi.us)



**FROM THE COMMITTEE  
ON MODEL CRIMINAL  
JURY INSTRUCTIONS**

=====

The Committee solicits comment on the following proposal by April 1, 2018. Comments may be sent in writing to Samuel R. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to [MCrimJI@courts.mi.gov](mailto:MCrimJI@courts.mi.gov) .

=====

**PROPOSED**

The Committee proposes amending M Crim JI 11.38 and 11.38a, the instructions for felon-in-possession-of-a-firearm charges to comport with the felony-firearm instruction, M Crim JI 11.34, by requiring that the possession of the firearm be “knowing,” and to otherwise clarify the instructions. Deletions are in strike-through, and new language is underlined. (As the Use Notes to the instructions are lengthy and are irrelevant to the amendments, they are not published below and the superscript Use Note numbers in the instructions are not included.)

**[AMENDED]      M Crim JI 11.38      Felon Possessing Firearm:  
Nonspecified Felony**

The defendant is charged with possession of [a firearm / ammunition] after having been convicted of a felony. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(1) First, that the defendant knowingly [possessed / used / transported / sold / distributed / received / carried / shipped / purchased] [a firearm / ammunition] in this state.

(2) Second, at that time, the defendant ~~was~~ had been convicted of [*name felony*].

[*Use the following paragraph only if the defendant offers some evidence that more than three years has passed since completion of the sentence on the underlying offense.*]

(3) Third, that less than three years had passed since [all fines were paid / all imprisonment was served / all terms of (probation / parole) were successfully completed].

**[AMENDED] M Crim JI 11.38a Felon Possessing Firearm: Specified Felony**

The defendant is charged with possession of [a firearm / ammunition] after having been convicted of a specified felony. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(1) First, that the defendant knowingly [possessed / used / sold / distributed / received/ carried / shipped / transported / purchased] [a firearm / ammunition] in this state.

(2) Second, at that time, the defendant ~~was~~ had been convicted of [*name specified felony*].

*[Use the following paragraphs only if the defendant offers some evidence that more than five years has passed since completion of the sentence on the underlying offense and that his or her firearm rights have been restored, MCL 28.424.]*

(3) Third, that less than five years had passed since [all fines were paid / all imprisonment was served / all terms of (probation / parole) were successfully completed].

(4) Fourth, that the defendant's right to [possess / use / transport / sell / receive] [a firearm / ammunition] has not been restored pursuant to Michigan law.

**Public Policy Position  
M Crim JI 11.38 and 11.38a**

**Support with Amendment**

**Explanation:**

The committee voted unanimously (10) to support the proposed model criminal jury instructions with an amendment inserting “previously” after “had” in 11.38(2) and 11.38a(2) to allow for better clarity in the jury instruction.

**Position Vote:**

Voted For position: 10

Voted against position: 0

Abstained from vote: 0

Did not vote: 7

**Contact Persons:**

Sofia V. Nelson

[snelson@sado.org](mailto:snelson@sado.org)

Michael A. Tesner

[mtesner@co.genesee.mi.us](mailto:mtesner@co.genesee.mi.us)



**FROM THE COMMITTEE  
ON MODEL CRIMINAL  
JURY INSTRUCTIONS**

=====

The Committee solicits comment on the following proposal by January 1, 2019. Comments may be sent in writing to Samuel R. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to [MCrimJI@courts.mi.gov](mailto:MCrimJI@courts.mi.gov) .

=====

**PROPOSED**

The Committee proposes a new instruction, M Crim JI 14.2a, where perjury is charged under MCL 750.423(2) – false declarations made under penalty of perjury (including in electronic media). The instruction is entirely new.

**[NEW] M Crim JI 14.2a Perjury**

(1) The defendant is charged with the crime of perjury. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant put [his / her] signature on a record.

A record includes a written document, or something that is electronically stored or capable of being preserved in some other way. It must be capable of being retrieved or recovered in a form that can be seen, heard, or perceived in some way.

A signature is any symbol that the defendant has adopted as [his / her] own, and includes electronic symbols, sounds or processes.

(3) Second, that the record included a provision that the statements or declarations made in the record were given under penalty of perjury.

(4) Third, that the record contained a false declaration or statement. The declaration or statement that is alleged to have been false in this case is that [*give details of alleged false statement*].

(5) Fourth, that the defendant knew that the declaration or statement was false when [he / she] made it.

**Public Policy Position  
Model Criminal Jury Instructions  
14.2a**

**SUPPORT**

**Explanation:**

The committee voted unanimously to support M Crim JI 14.1a as drafted.

**Position Vote:**

Voted For position: 12

Voted against position: 0

Abstained from vote: 0

Did not vote: 5

**Contact Persons:**

Sofia V. Nelson [snelson@sado.org](mailto:snelson@sado.org)

Michael A. Tesner [mtesner@co.geneseee.mi.us](mailto:mtesner@co.geneseee.mi.us)

**Public Policy Position  
M Crim JI 14.2a**

**Support**

**Position Vote:**

Voted For position: 15

Voted against position: 2

Abstained from vote: 0

Did not vote: 7

**Contact Person:** Judge Hugh B. Clarke, Jr.

**Email:** [hugh.clarke@lansingmi.gov](mailto:hugh.clarke@lansingmi.gov)



**FROM THE COMMITTEE  
ON MODEL CRIMINAL  
JURY INSTRUCTIONS**

=====

The Committee solicits comment on the following proposal by May 1, 2019. Comments may be sent in writing to Samuel R. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to [MCrimJI@courts.mi.gov](mailto:MCrimJI@courts.mi.gov) .

=====

**PROPOSED**

The Committee proposes amending M Crim JI 15.18 and eliminating 15.19, the instructions for charges involving moving violations causing death or serious impairment of a body function under MCL 257.601d. The amendment follows the decision in *People v Czuprynski*, a published Court of Appeals opinion (No. 336883), finding M Crim JI 15.19 in error for failing to require proof that a moving violation was the cause of the serious impairment of a body function. The proposal combines the elements for both instructions in M Crim JI 15.18. Deletions are in strike-through, and new language is underlined.

**[AMENDED] M Crim JI 15.18 Moving Violation Causing Death or Serious Impairment of a Body Function  
[Use for Acts Committed On or After October 31, 2010]**

(1) [The defendant is charged with the crime / You may consider the lesser charge<sup>1</sup>] of [~~state charge~~] committing a moving traffic violation that caused [death / serious impairment of a body function] ~~of another person~~. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant operated a motor vehicle. To operate means to drive or have actual physical control of the vehicle.

(3) Second, that the defendant operated the vehicle on a highway or other place open to the public or generally accessible to motor vehicles [including any designated parking area].



(4) Third, that, while operating the motor vehicle, the defendant committed the following a moving violation by: [describe the moving violation].

(5) Fourth, The moving violation of [describe the moving violation] was a cause of the death of [name deceased]. To “cause” the victim’s death, the defendant’s operation of the vehicle must have been a factual cause of the death, that is, but for the defendant’s operation of the vehicle, the death would not have occurred. In addition, operation of the vehicle must have been a proximate cause of death, that is, death or serious injury must have been a direct and natural result of operating the vehicle. that by committing the moving violation, the defendant caused [the death of (name deceased) / (name injured person) to suffer a serious impairment of a body function<sup>2</sup>]. To cause [the death of (name deceased) / such injury to (name injured person), the defendant’s moving violation must have been a factual cause of the [death / injury], that is, but for committing the moving violation the [death / injury] would not have occurred. In addition, the [death / injury] must have been a direct and natural result of committing the moving.

*Use Note*

1. Use when instructing on this crime as a lesser offense.
2. MCL 257.58c, provides that serious impairment of a body function includes, but is not limited to, one or more of the following:
  - (a) Loss of a limb or loss of use of a limb.
  - (b) Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.
  - (c) Loss of an eye or ear or loss of use of an eye or ear.
  - (d) Loss or substantial impairment of a bodily function.
  - (e) Serious visible disfigurement.
  - (f) A comatose state that lasts for more than 3 days.
  - (g) Measurable brain or mental impairment.
  - (h) A skull fracture or other serious bone fracture.
  - (i) Subdural hemorrhage or subdural hematoma.
  - (j) Loss of an organ.



**Public Policy Position  
M Crim JI 15.18**

**Support as Written**

**Position Vote:**

Voted For position: 10

Voted against position: 0

Abstained from vote: 0

Did not vote: 7

**Contact Persons:**

Sofia V. Nelson [snelson@sado.org](mailto:snelson@sado.org)

Michael A. Tesner [mtesner@co.geneseec.mi.us](mailto:mtesner@co.geneseec.mi.us)



**FROM THE COMMITTEE  
ON MODEL CRIMINAL  
JURY INSTRUCTIONS**

=====

The Committee solicits comment on the following proposal by February 1, 2018. Comments may be sent in writing to Samuel R. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to [MCrimJI@courts.mi.gov](mailto:MCrimJI@courts.mi.gov) .

=====

**PROPOSED**

The Committee proposes amending M Crim JI 20.38c, the instruction for possessing or accessing child sexually abusive activity, to clarify that it applies when the defendant possesses or accesses child sexually abusive material for viewing it himself or herself. Deletions are in strike-through, and new language is underlined.

**M Crim JI 20.38c Child Sexually Abusive Activity – Possessing or Accessing**

- (1) The defendant is charged with the crime of possessing or accessing child sexually abusive material. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:
- (2) First, that the defendant [~~possessed~~ intentionally looked for child sexually abusive material ~~and intentionally caused to view it, or to cause it to be sent to or seen by another person~~].
- (3) Child sexually abusive materials are pictures, movies, or illustrations<sup>1</sup> of [a person under 18 years of age / the representation of a person under 18 years of age] engaged in one or more of the following sexual acts:

*[Choose any of the following that apply:]*<sup>2</sup>

- (a) sexual intercourse, which is penetration of a genital, oral, or anal opening by the genitals, mouth, or tongue, or with an artificial genital, whether the intercourse is real or simulated, and whether it is between persons of the same or opposite sex, or between a person and an animal, [and / or]
- (b) erotic fondling, which is the touching of a person's clothed or unclothed genitals, pubic area, buttocks, female breasts, or the developing or undeveloped breast area of a child for the purpose of sexual gratification or stimulation of any person involved, but does not

include other types of touching, even if affectionate, [and / or]

(c) sadomasochistic abuse, which is restraining or binding a person with rope, chains, or any other kind of binding material; whipping; or torturing for purposes of sexual gratification or stimulation, [and / or]

(d) masturbation, which is stimulation by hand or by an object of a person's clothed or unclothed genitals, pubic area, buttocks, female breasts, or the developing or undeveloped breast area of a child for sexual gratification or stimulation, [and / or]

(e) passive sexual involvement, which is watching, drawing attention to, or exposing someone to persons who are performing real or simulated sexual intercourse, erotic fondling, sadomasochistic abuse, masturbation, sexual excitement, or erotic nudity for the purpose of sexual gratification or stimulation of any person involved, [and / or]

(f) sexual excitement, which is the display of someone's genitals in a state of stimulation or arousal, [and / or]

(g) erotic nudity, which is showing the genital, pubic, or rectal area of someone in a way that tends to produce lewd or lustful emotions.

*[Choose either (4) or (5), depending on whether the depiction is an actual person or is a created representation of a person under the age of 18:]*

(4) Second, that the defendant knew or should reasonably have known<sup>3</sup> that the person shown in the sexually abusive material was less than 18 years old, or failed to take reasonable precautions to determine whether the person was less than 18 years old.

(5) Second, that the defendant possessed or accessed a portrayal of a person appearing to be under the age of 18, knowing that the person portrayed appeared to be under the age of 18, and all of the following conditions apply:

(a) An average person, applying current community standards, would find that the material appealed to an unhealthy or shameful interest in nudity, sex, or excretion.<sup>4</sup>

(b) A reasonable person would not find any serious literary, artistic, political, or scientific value in the material.

(c) The material shows or describes sexual intercourse, erotic fondling, sadomasochistic abuse, masturbation, passive sexual involvement, sexual excitement, or erotic nudity, as previously described for you.

(6) Third, that the defendant [knew that (he / she) possessed / knowingly looked for] the material.

**Public Policy Position**  
**Model Criminal Jury Instructions**  
**20.38c**

**SUPPORT**

**Explanation:**

The committee voted unanimously to support M Crim JI 20.38c with the following amendment:

(2) First, that the defendant [possessed child sexually abusive material / intentionally sought and viewed ~~looked for~~ child sexually abusive material ~~and intentionally caused~~ to view it, ~~or to cause it to be sent to or seen by another person~~].

**Position Vote:**

Voted For position: 12

Voted against position: 0

Abstained from vote: 0

Did not vote: 5

**Contact Persons:**

Sofia V. Nelson

[snelson@sado.org](mailto:snelson@sado.org)

Michael A. Tesner

[mtesner@co.genesee.mi.us](mailto:mtesner@co.genesee.mi.us)

**Public Policy Position  
M Crim JI 20.38c**

**Oppose**

**Explanation:**

The Criminal Law Section had several concerns with regards to the jury instruction:

- 1) In section (2), the movement of the word “intentionally” could allow conviction of possession when someone looked for child sexual abusive material without success;
- 2) Also in section (2), it is unclear if the element intentionality applies to the second clause “or to cause it to be sent...”
- 3) The vagueness of the instruction may lead a jury to believe that merely googling “child porn” violates the statute.

**Note:**

SBM staff contacted the Joshua Blanchard, chair of the Criminal Law Section, and Sofia Nelson, Council-Member who made the motion to oppose the criminal jury instruction, for further details and background on the Section’s opposition. Ms. Nelson, who also serves as the co-chair of the Criminal Jurisprudence & Practice (CJAP) Committee, noted that the amended language presented by the CJAP committee in its position addresses the concerns enumerated above by the Criminal Law Section.

**Position Vote:**

Voted For position: 14

Voted against position: 3

Abstained from vote: 0

Did not vote: 7

**Contact Person:** Judge Hugh B. Clarke, Jr.

**Email:** [hugh.clarke@lansingmi.gov](mailto:hugh.clarke@lansingmi.gov)



**FROM THE COMMITTEE  
ON MODEL CRIMINAL  
JURY INSTRUCTIONS**

=====

The Committee solicits comment on the following proposal by January 1, 2019. Comments may be sent in writing to Samuel R. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to [MCrimJI@courts.mi.gov](mailto:MCrimJI@courts.mi.gov) .

=====

**PROPOSED**

The Committee proposes amending M Crim JI 27.1, the jury instruction for embezzlement charged under MCL 750.174, and M Crim JI 27.5, the jury instruction for embezzlement charged under MCL 750.177 or 750.178 to accommodate statutory changes and clarify the instructions. Deletions are in strike-through, and new language is underlined.

**[AMENDED] M Crim JI 27.1 Embezzlement by Agent or  
Servant**

(1) The defendant is charged with the crime of embezzlement. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the [money / property] ~~belongs~~ belonged to [*name principal*].<sup>1</sup>

(3) Second, that the defendant had a relationship of trust with [*name principal*] because the defendant was [*define relationship*].<sup>2</sup>

(4) Third, that the defendant obtained possession or control of the [money / property] because of this relationship.

(5) Fourth, that the defendant

[*Choose (a), (b), or (c):*]

(a) dishonestly disposed of the [money / property].

(b) converted the [money / property] to [his / her] own use.

(c) took or hid the [money / property] with the intent to convert it to [his / her] own use without the consent of [*name principal*].

(6) Fifth, that at the time the defendant did this, [he / she] intended to defraud or cheat [*name principal*] of some property.<sup>3</sup>

(7) Sixth, that the fair market value of the property or amount of money embezzled was:<sup>4</sup>

[Choose only one of the following unless instructing on lesser offenses:]

- (a) \$100,000 or more.
- (b) \$50,000 or more but less than \$100,000.
- (c) \$20,000 or more, but less than \$50,000.
- (d) \$1,000 or more, but less than \$20,000.
- (e) \$200 or more, but less than \$1,000.
- (f) some amount less than \$200.

[Use the following paragraph only if applicable:]

(8) [You may add together the fair market value of property or money embezzled in separate incidents if part of a scheme or course of conduct (within a any 12-month period)<sup>5</sup> when deciding whether the prosecutor has proved the value of the property or amount of money embezzled ~~the amount required~~ beyond a reasonable doubt.]

#### *Use Note*

1. The principal must be someone other than the defendant.
2. The statute lists agent, servant, employee, trustee, bailee, or custodian. See the table of contents to chapter 22 for a list of definitions that may be used.
3. This is a specific intent crime. The defendant's intent to return or replace the money at a later time does not provide a defense. *People v Butts*, 128 Mich 208, 87 NW 224 (1901).
4. The Fair Market Value Test, M Crim JI 22.1, should be given when applicable.
5. The 12-month time limit does not apply if the embezzlement scheme or course of conduct was directed against only one person or one legal entity. In those cases, with one victim, do not include the parenthetical phrase referring to the 12-month period.



**[AMENDED] M Crim JI 27.5 Embezzlement of Mortgaged Property**

(1) The defendant is charged with the crime of dishonestly [embezzling / removing / hiding / transferring] mortgaged property. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the property in question here, [*identify property*], had a [*identify encumbrance*] on it.

(3) Second, that [the defendant / someone else] held this property.

(4) Third, that the defendant [embezzled / removed / hid / transferred] the property.<sup>1</sup>

(5) Fourth, that when the defendant did this [he / she] knew that the property had a [*identify encumbrance*] on it.

(6) Fifth, that when the defendant did this, [he / she] intended to defraud or cheat [*name complainant*].<sup>2</sup>

*[Use (7) for felonies:]*

~~(7) Sixth, that the fair market value of the property involved is over \$100.<sup>3</sup>~~

*[Use (8) for misdemeanors:]*

~~(8) Sixth, that the property involved is worth something.~~

(7) Sixth, that the fair market value of the property embezzled was:<sup>3</sup>

[Choose only one of the following unless instructing on lesser offenses:]

(a) \$20,000 or more.

(b) \$1,000 or more, but less than \$20,000.

(c) \$200 or more, but less than \$1,000.

(d) some amount less than \$200.

*Use Note*

1. Define terms used. See the table of contents to chapter 22 for a list of definitions.

2. This is a specific intent crime.

3. The Fair Market Value Test, M Crim JI 22.1, should be given when applicable.

**Public Policy Position  
Model Criminal Jury Instructions  
27.1 and 27.5**

**SUPPORT**

**Explanation:**

The committee voted unanimously to support M Crim JI 27.1 and 27.5 as drafted.

**Position Vote:**

Voted For position: 12

Voted against position: 0

Abstained from vote: 0

Did not vote: 5

**Contact Persons:**

Sofia V. Nelson

[snelson@sado.org](mailto:snelson@sado.org)

Michael A. Tesner

[mtesner@co.genesee.mi.us](mailto:mtesner@co.genesee.mi.us)



**FROM THE COMMITTEE  
ON MODEL CRIMINAL  
JURY INSTRUCTIONS**

=====

The Committee solicits comment on the following proposal by February 1, 2019. Comments may be sent in writing to Samuel R. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to [MCrimJI@courts.mi.gov](mailto:MCrimJI@courts.mi.gov) .

=====

**PROPOSED**

The Committee proposes new instructions for crimes charged under MCL 750.49, pertaining to using animals for fighting or targets (or providing facilities for doing so or breeding such animals, etc.): M Crim JI 33.1, 33.1a, 33.1b, 33.1c, 33.1d, 33.1e, 33.1f, and 33.1g. These instructions are entirely new.

**[NEW] M Crim JI 33.1 Possession or Sale of Animal for Fighting,  
Baiting, or Shooting**

(1) The defendant is charged with a crime involving possession or sale of an animal for [fighting / baiting / shooting]. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant knowingly [owned / possessed / used / bought / sold / offered to buy or sell/imported/exported] [a / an] [*identify kind of animal*].

(3) Second, that the [*identify kind of animal*] was to be used [for the purpose of fighting / for the purpose of baiting / as a target to be shot at as a test of skill in marksmanship].

(4) Third, that the defendant knew that the [*identify kind of animal*] was to be used [for the purpose of fighting / for the purpose of baiting / as a target to be shot at as a test of skill in marksmanship].

*Use Note*

If the defendant raises an issue concerning “possession,” the jury may be instructed in accord with M Crim JI 12.7 and 11.34b.

**[NEW] M Crim JI 33.1a Use of an Animal for Fighting, Baiting, or Shooting**

(1) The defendant is charged with a crime involving the use of an animal for fighting, baiting, or shooting. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

*[Select (2), (3), (4) or (5) according to what has been charged:]*

(2) First, that the defendant knowingly [was a party to / caused] the use of [a / an] *[identify kind of animal]* [for fighting / for baiting / as a target to be shot at as a test of skill in marksmanship].

(3) First, that the defendant [rented / obtained the use of] [a building / a shed / a room / a yard / grounds / premises] for the purpose of using [a / an] *[identify kind of animal]* [for fighting / for baiting / as a target to be shot at as a test of skill in marksmanship].

(4) First, that the defendant permitted the use of [a building / a shed / a room / a yard / grounds / premises] that belonged to [him / her] or that was under [his / her] control for the purpose of using [a / an] *[identify kind of animal]* [for fighting / for baiting / as a target to be shot at as a test of skill in marksmanship].

(5) First, that the defendant [organized / promoted / collected money for] the use of [a / an] *[identify kind of animal]* [for fighting / for baiting / as a target to be shot at as a test of skill in marksmanship].

(6) Second, that the defendant knew that the *[identify kind of animal]* was to be used [for fighting / for baiting / as a target to be shot at as a test of skill in marksmanship].

**[NEW] M Crim JI 33.1b Exhibitions of Animal Fighting, Baiting, or Shooting**

(1) The defendant is charged with a crime involving the exhibition of an animal for fighting, baiting, or shooting. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

*[Select (2) or (3) according to what has been charged:]*

(2) First, that the defendant was present at [a building / a shed / a room / a yard / grounds / premises] where preparations were being made for an exhibition of [a / an] *[identify kind of animal]* [for fighting / for baiting / as a target to be shot at as a test of skill in marksmanship].

(3) First, that the defendant was present at an exhibition of [a / an] *[identify kind of animal]* [for fighting / for baiting / as a target to be shot at as a test of skill in marksmanship].

(4) Second, that the defendant knew that an exhibition of *[identify kind of animal]* [for fighting / for baiting / as a target to be shot at as a test of skill in marksmanship] [was about to take place / was taking place].

**[NEW] M Crim JI 33.1c Breeding, Buying, or Selling Animal  
Trained for Fighting, Baiting, or Shooting**

(1) The defendant is charged with a crime involving the breeding, buying or selling of an animal for [fighting / baiting / shooting]. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant knowingly [bred / bought / sold / offered to buy or sell / exchanged / imported / exported] [(a / an) (*identify kind of animal*) / the offspring of (a / an) (*identify kind of animal*)] trained or used [for fighting / for baiting / as a target to be shot at as a test of skill in marksmanship].

(3) Second, that the defendant knew the [*identify kind of animal*] had been trained or used [for fighting / for baiting / as a target to be shot at as a test of skill in marksmanship].

[NEW]

M Crim JI 33.1d

**Possessing or Buying Equipment  
for Animal Fighting, Baiting, or  
Shooting**

(1) The defendant is charged with a crime involving the possession or sale of equipment used for animal [fighting / baiting / shooting]. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant knowingly [owned / possessed / used / bought / sold / offered to buy or sell / transported / delivered] any device or equipment intended to be used for [ (*identify kind of animal*) fighting / baiting (a / an) (*identify kind of animal*) / targeting [a / an] (*identify kind of animal*) to be shot at as a test of skill in marksmanship].

(3) Second, that the defendant knew the device or equipment was intended to be used for [(*identify kind of animal*) fighting / baiting (a / an) (*identify kind of animal*) / targeting [a / an] (*identify kind of animal*) to be shot at as a test of skill in marksmanship].

**[NEW] M Crim JI 33.1e Inciting Animal Used in Fighting to Attack a Person**

(1) The defendant is charged with a crime involving inciting an animal trained or used for fighting to attack a person. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that [a / an] [*identify kind of animal*] was [trained or used for fighting / was the first or second generation offspring of an animal trained or used for fighting].

(3) Second, that the defendant knew that the [*identify kind of animal*] was [trained or used for fighting / the first or second generation offspring of an animal trained or used for fighting].

(4) Third, that the defendant incited the [*identify kind of animal*] to attack a person.

(5) Fourth, that the defendant intended to incite the animal to attack a person.

[Use (6) when the attack is alleged to have caused death.]

(6) Fifth, that the animal caused the death of that person.



**[NEW] M Crim JI 331.f Owing Animal Trained for Fighting –  
Attacking a Person**

(1) The defendant is charged with a crime involving ownership of an animal trained or used for fighting that attacked another person. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant owned [a / an] [*identify kind of animal*] that was [trained or used for fighting / the first or second generation offspring of a dog trained or used for fighting].

(3) Second, that the defendant knew the [*identify kind of animal*] was [trained or used for fighting / the first or second generation offspring of a dog trained or used for fighting].

(4) Third, that the [*identify kind of animal*] attacked another person without provocation.

[*Use (5) when the attack is alleged to have caused death.*]

(5) Fourth, that the [*identify kind of animal*] caused the death of that person.

*Use Note*

The section of the statute addressed by this instruction, MCL 750.49(13), provides only that first or second generation dogs are included, and not other fighting animals.

**[NEW] M Crim JI 33.1g Owing Animal Trained for Fighting - Unrestrained**

(1) The defendant is charged with a crime involving ownership of an animal trained or used for fighting that was not securely restrained. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant owned [a / an] [*identify kind of animal*] that was [trained or used for fighting / the first or second generation offspring of (a / an) (*identify kind of animal*) trained or used for fighting]

(3) Second, that the defendant knew the [*identify kind of animal*] that was [trained or used for fighting / the first or second generation offspring of (a / an) (*identify kind of animal*) trained or used for fighting].

(4) Third, that the [*identify kind of animal*] [went beyond the property limits of its owner without being securely restrained / was not securely enclosed or restrained on the owner's property].

**Public Policy Position**  
**Model Criminal Jury Instructions**  
**33.1, 33.1a, 33.1b, 33.1c, 33.1d, 33.1e, 33.1f, and 33.1g**

**SUPPORT**

**Explanation:**

The committee voted unanimously to support M Crim JI 33.1, 33.1a, 33.1b, 33.1c, 33.1d, 33.1e, 33.1f, and 33.1g as drafted.

**Position Vote:**

Voted For position: 12

Voted against position: 0

Abstained from vote: 0

Did not vote: 5

**Contact Persons:**

Sofia V. Nelson [snelson@sado.org](mailto:snelson@sado.org)

Michael A. Tesner [mtesner@co.genesee.mi.us](mailto:mtesner@co.genesee.mi.us)

# State Bar of Michigan Financial Results Summary

2 Months Ended November 30, 2018

Fiscal Year 2019

## Administrative Fund

### Summary of YTD November 30, 2018, Actual Results

For the two months ended November 30, 2018, the State Bar had an Operating Loss of \$237,964 and Non-Operating Income of \$35,838, for a decrease in Net Position of \$202,126 so far in FY 2019. Net Position as of November 30, 2018 totaled \$12,598,645.

### YTD Variance from Budget Summary:

YTD Operating Revenue - \$33,972 favorable to YTD budget, or 2.2%

YTD Operating Expense - \$136,309 favorable to YTD budget, or 7.0%

YTD Non-Operating Income - \$6,671 favorable to YTD budget, or 22.9%

YTD Change in Net Position - \$176,952 favorable to YTD budget

### YTD Key Budget Variances:

#### **YTD Operating Revenue variance - \$33,972 favorable to budget:**

- Operating revenue was favorable to budget due to Executive Offices by \$10,000 for a Diversity program grant that was not budgeted; Dues and Related by \$8,846, or .7%; Pro Hac Vice fees by \$8,105; Member & Communication Services by \$12,336, or 7.9%, due primarily to Bar Journal and LRS; and partially offset by an underage in Professional Standards by \$5,315, or 11.4%, due primarily to C&F and LJAP.

#### **YTD Operating Expense variance - \$136,309 favorable to budget:**

- Salaries and Employee Benefits/ Payroll Taxes - \$49,620 favorable - (4.3%)
  - Underage in salaries and benefits due to vacancies. Additionally, health care expenses are under partly due to timing.
- Non-Labor Operating Expenses - \$86,689 favorable - (10.9%)
  - Exec Offices - \$8,113 favorable - (4.7%) - Primarily Executive Office, Outreach, R&D, and General Counsel - some timing.
  - Finance & Admin - \$29,575 favorable - (9.9%) - Under in Facilities Services and Financial Services - some timing.
  - Member & Communication Services - \$32,873 favorable - (11.2%) - Primarily IT, Bar Journal, and e-Journal; and to a lesser extent, Media Relations and Print Center - some timing.

- Professional Standards - \$16,128 favorable - (56.4%) - Primarily C&F; and to a lesser extent, other departments - some timing.

### **YTD Non-Operating Revenue Budget Variance - \$6,671 favorable to budget**

- Investment income is favorable to budget by \$2,580, or 12.3%, due to higher interest rates and more favorable cash management opportunities than planned. Retiree Health Care Trust investment income is favorable to budget by \$3,091.

### **Cash and Investment Balance – Admin Fund**

As of November 30, 2018, the cash and investment balance in the State Bar Admin Fund (net of “*due to Sections, Client Protection Fund, and Retiree Health Care Trust*”) was \$12,843,934.

### **SBM Retiree Health Care Trust**

As of November 30, 2018, the SBM Retiree Health Care Trust had a fund balance of \$3,034,017, which is an increase of \$3,091 so far in FY 2019, due to investment earnings. The trust was temporarily liquidated at the end of September pending a final disposition of the investment policy with GASB 75, and has since been reinvested in mutual funds in December.

### **Capital Budget – Admin Fund**

Through November 30, 2018, YTD capital expenditures totaled \$25,000 which is 67% over the YTD capital budget due to higher capital spending on the e-commerce site that was not anticipated in the budget.

### **Administrative Fund FY 2019 Year-End Financial Forecast**

Based on our latest year-end financial forecast, we are projecting to achieve the FY 2019 budget, not including the investment impacts of the retiree health care trust that is now in the Administrative Fund and included in the budget.

### **Client Protection Fund**

The Net Position of the Client Protection Fund as of November 30, 2018 totaled \$1,824,705, a decrease of \$185,048 so far in FY 2019. There are authorized but unpaid claims totaling \$51,319 awaiting signatures for subrogation agreements. If these claims were reflected, Net Position would be reduced to \$1,773,386.

### **SBM Membership**

As of November 30, 2018, the total active, inactive and emeritus membership in good standing totaled 46,068 attorney members, for a net increase of 353 members so far in FY 2019. Active members totaled 42,646 and dues paying members (active and inactive less than 50 years of service) totaled 42,188. A total of 404 new members have joined the SBM so far during FY 2019.

**STATE BAR OF MICHIGAN  
ADMINISTRATIVE FUND**

**Unaudited and For Internal Use Only**

**FINANCIAL REPORTS  
November 30, 2018**

**FY 2019**

Note: Dues revenue is recognized and budgeted as earned each month throughout the year.

State Bar of Michigan  
Administrative Fund  
**Statement of Net Position**  
For the Months Ending Sept 30, 2018 and Nov 30, 2018

	Sept 30, 2018	Nov 30, 2018	Increase (Decrease)	%	Beginning of FY 2019 October 1, 2018
<b>ASSETS AND DEFERRED OUTFLOWS</b>					
Assets					
Cash	871,888	6,213,982	5,342,094	612.7%	871,888
Investments (CDARS and CD's)	9,213,528	10,178,528	965,000	10.5%	9,213,528
Accounts Receivable	229,144	209,752	(19,392)	(8.5%)	229,144
Due from (to) CPF	15,354	(253,465)	(268,819)	1750.8%	15,354
Due from (to) Sections	(2,256,271)	(3,295,110)	(1,038,839)	(46.0%)	(2,256,271)
Due from Attorney Discipline System	344,632	0	(344,632)	100.0%	344,632
Inventory	23,412	33,847	10,435	44.6%	23,412
Prepaid Expenses	400,408	272,905	(127,503)	(31.8%)	400,408
Retiree Health Care Trust Investment	3,030,926	3,034,017	3,091	0.1%	3,030,926
Capital Assets, net	4,008,941	3,944,607	(64,334)	(1.6%)	4,008,941
<b>Total Assets</b>	<b>\$15,881,962</b>	<b>\$20,339,062</b>	<b>\$4,457,100</b>	<b>28.1%</b>	<b>\$15,881,962</b>
Deferred Outflows of Resources related to pensions	38,024	38,024	0	0.0%	38,024
Deferred Outflows of Resources related to OPEB	139,752	139,752	0	0.0%	139,752
<b>TOTAL ASSETS AND DEFERRED OUTFLOWS</b>	<b>\$16,059,738</b>	<b>\$20,516,838</b>	<b>\$4,457,100</b>	<b>27.8%</b>	<b>\$16,059,738</b>
<b>LIABILITIES, DEFERRED INFLOWS AND NET POSITION</b>					
Liabilities					
Accounts Payable	566,297	3,466	(562,831)	(99.4%)	566,297
Accrued Expenses	483,538	489,023	5,485	1.1%	483,538
Unearned Revenue	258,946	5,475,518	5,216,572	2014.5%	258,946
Net Pension Liability	263,680	263,680	0	0.0%	263,680
Net OPEB Liability	1,634,710	1,634,710	0	0.0%	1,634,710
<b>Total Liabilities</b>	<b>\$3,207,171</b>	<b>\$7,866,397</b>	<b>\$4,659,226</b>	<b>145.3%</b>	<b>\$3,207,171</b>
Deferred Inflows of Resources related to pensions	15,856	15,856	0	0.0%	15,856
Deferred Inflows of Resources related to OPEB	35,940	35,940	0	0.0%	35,940
<b>Total Liabilities and Deferred Inflows</b>	<b>\$3,258,967</b>	<b>\$7,918,193</b>	<b>\$4,659,226</b>	<b>143.0%</b>	<b>\$3,258,967</b>
Net Position					
Invested in capital assets, net of related debt	4,008,941	3,944,607	(64,334)	(1.6%)	4,008,941
Invested in retiree health care, net of related liability	1,500,028	1,503,119	3,091	0.2%	1,500,028
Unrestricted	7,291,802	7,150,919	(140,883)	(1.9%)	8,791,830
<b>Total Net Position</b>	<b>\$12,800,771</b>	<b>\$12,598,645</b>	<b>(202,126)</b>	<b>(1.6%)</b>	<b>\$12,800,771</b>
<b>TOTAL LIABILITIES, DEFERRED INFLOWS AND NET POSITION</b>	<b>\$16,059,738</b>	<b>\$20,516,838</b>	<b>\$4,457,100</b>	<b>27.8%</b>	<b>\$16,059,738</b>

NOTE: Cash and investments actually available to the State Bar Administrative Fund, after deduction of the "Due to Sections" and "Due to CPF" and not including the "Retiree Health Care Trust" is \$12,843,934 (See below):

	Sept 30, 2018	Nov 30, 2018	Increase (Decrease)	%	Beginning of FY 2019 October 1, 2018
<b>CASH AND INVESTMENT BALANCES</b>					
Cash	871,888	6,213,982	5,342,094	612.7%	871,888
Investments	9,213,528	10,178,528	965,000	10.5%	9,213,528
<b>Total Available Cash and Investments</b>	<b>\$10,085,416</b>	<b>\$16,392,509</b>	<b>6,307,093</b>	<b>62.5%</b>	<b>\$10,085,416</b>
Less:					
Due to Sections	2,256,271	3,295,110	1,038,839	46.0%	2,256,271
Due to CPF	(15,354)	253,465	268,819	(1750.8%)	(15,354)
<b>Due to Sections and CPF</b>	<b>\$2,240,917</b>	<b>\$3,548,575</b>	<b>1,307,658</b>	<b>58.4%</b>	<b>2,240,917</b>
<b>Net Administrative Fund Cash and Investment Balance</b>	<b>\$7,844,499</b>	<b>\$12,843,934</b>	<b>\$4,999,435</b>	<b>63.7%</b>	<b>\$7,844,499</b>

State Bar of Michigan  
Statement of Revenue, Expense, and Net Assets  
For the two months ending November 30, 2018  
**YTD FY 2019 Revenue**

<b>Revenue</b>	<u>YTD Actual</u>	<u>YTD Budget</u>	<u>Variance</u>	<u>Percentage</u>
<b>Executive Offices</b>				
Diversity Grant	10,000	0	10,000	N/A
<b>Finance &amp; Administration</b>				
Dues & Related	1,280,588	1,271,742	8,846	0.7%
Investment Income	32,747	29,167	3,580	12.3%
Investment Income - Ret HC Trust	3,091	0	3,091	N/A
Other Revenue	73,796	65,691	8,105	12.3%
<b>Finance &amp; Administration Total</b>	<u>1,390,222</u>	<u>1,366,600</u>	<u>23,622</u>	<u>1.7%</u>
<b>Member &amp; Communication Services</b>				
Bar Journal Directory	8,633	9,000	(367)	(4.1%)
Bar Journal 11 issues	64,551	59,208	5,343	9.0%
Print Center	13,419	12,017	1,402	11.7%
e-Journal and Internet	22,883	22,333	550	2.5%
BCBSM Insurance Program	16,667	16,667	0	0.0%
Credit Card Program	0	0	0	N/A
Annual Meeting	0	0	0	N/A
Labels	0	500	(500)	(100.0%)
Upper Michigan Legal Institute	0	0	0	N/A
Bar Leadership Forum	0	0	0	N/A
Practice Management Resource Center	0	183	(183)	(100.0%)
Lawyer Referral Service (LRS)	30,591	23,667	6,924	29.3%
Other Member & Endorsed Revenue	12,525	13,358	(833)	(6.2%)
<b>Member &amp; Communication Services Total</b>	<u>169,269</u>	<u>156,933</u>	<u>12,336</u>	<u>7.9%</u>
<b>Professional Standards</b>				
Ethics	2,825	3,200	(375)	(11.7%)
Character & Fitness	31,935	35,075	(3,140)	(9.0%)
Lawyers and Judges Assistance Program	6,533	8,333	(1,800)	(21.6%)
<b>Professional Standards Total</b>	<u>41,293</u>	<u>46,608</u>	<u>(5,315)</u>	<u>(11.4%)</u>
<b>Total Revenue</b>	<b>1,610,784</b>	<b>1,570,141</b>	<b>40,643</b>	<b>2.6%</b>
<b>Less: Investment Income</b>	<b>32,747</b>	<b>29,167</b>	<b>3,580</b>	<b>12.3%</b>
Investment Income - Ret HC Trust	3,091	0	0	N/A
<b>Total Operating Revenue</b>	<b>1,574,946</b>	<b>1,540,974</b>	<b>37,063</b>	<b>2.4%</b>



State Bar of Michigan  
Statement of Revenue, Expense and Net Assets  
For the two months ending November 30, 2018  
**YTD FY 2019 Expenses**

Expenses	YTD Actual	YTD Budget	Variance	Percentage
<b>Executive Offices</b>				
Executive Office	6,797	10,892	(4,095)	(37.6%)
Representative Assembly	6,572	6,517	55	0.8%
Board of Commissioners	16,272	15,933	339	2.1%
General Counsel	1,463	2,651	(1,188)	(44.8%)
Governmental Relations	12,487	12,703	(216)	(1.7%)
Human Resources (incl. empl benefits)	352,213	382,728	(30,515)	(8.0%)
Outreach, Local Bar & Section Support	90,368	92,650	(2,282)	(2.5%)
Research and Development	2,693	4,225	(1,532)	(36.3%)
Justice Initiatives	952	3,233	(2,281)	(70.6%)
Diversity	18,510	16,517	1,993	12.1%
Salaries	232,287	234,570	(2,283)	(1.0%)
<b>Executive Offices Total</b>	<b>740,614</b>	<b>782,619</b>	<b>(42,005)</b>	<b>(5.4%)</b>
<b>Finance &amp; Administration</b>				
Administration	5,081	6,246	(1,165)	(18.7%)
Facilities Services	53,896	65,917	(12,021)	(18.2%)
Financial Services	208,969	225,358	(16,389)	(7.3%)
Salaries	67,835	74,550	(6,715)	(9.0%)
<b>Finance &amp; Administration Total</b>	<b>335,781</b>	<b>372,071</b>	<b>(36,290)</b>	<b>(9.8%)</b>
<b>Member &amp; Communication Services</b>				
Bar Journal Directory	846	600	246	41.0%
Bar Journal 11 Issues	79,927	88,208	(8,281)	(9.4%)
Print Center	7,567	11,167	(3,600)	(32.2%)
Internet Department	38,293	39,350	(1,057)	(2.7%)
e-Journal	15,441	20,842	(5,401)	(25.9%)
Media Relations	7,576	10,167	(2,591)	(25.5%)
Member & Endorsed Services	41,206	40,867	339	0.8%
Annual Meeting	7,477	8,000	(523)	(6.5%)
Bar Leadership Forum	0	0	0	N/A
Practice Mgt Resource Center (PMRC)	652	1,142	(490)	(42.9%)
UMLI	0	0	0	N/A
Lawyer Referral Service (LRS)	2,727	2,750	(23)	(0.8%)
Information Technology Services	57,691	69,183	(11,492)	(16.6%)
Salaries	302,123	310,770	(8,647)	(2.8%)
<b>Member &amp; Communication Services Total</b>	<b>561,526</b>	<b>603,046</b>	<b>(41,520)</b>	<b>(6.9%)</b>
<b>Professional Standards</b>				
Character & Fitness (C&F)	3,477	11,584	(8,107)	(70.0%)
Client Protection Fund Dept	1,240	1,775	(535)	(30.1%)
Ethics	3,156	4,600	(1,444)	(31.4%)
Unauthorized Practice of Law (UPL)	1,022	3,042	(2,020)	(66.4%)
Lawyer & Judges Assistance Program	3,595	7,617	(4,022)	(52.8%)
Salaries	162,498	162,866	(368)	(0.2%)
<b>Professional Standards Total</b>	<b>174,988</b>	<b>191,484</b>	<b>(16,496)</b>	<b>(8.6%)</b>
<b>Total Expense</b>	<b>1,812,909</b>	<b>1,949,220</b>	<b>(136,311)</b>	<b>(7.0%)</b>
<b>Human Resources Detail</b>				
Payroll Taxes	54,725	59,545	(4,820)	(8.1%)
Benefits	287,553	314,340	(26,787)	(8.5%)
Other Expenses	9,936	8,842	1,094	12.4%
<b>Total Human Resources</b>	<b>352,214</b>	<b>382,727</b>	<b>(30,513)</b>	<b>(8.0%)</b>
<b>Financial Services Detail</b>				
Depreciation	89,333	89,333	0	0.0%
Other Expenses	119,636	136,025	(16,389)	(12.0%)
<b>Total Financial Services</b>	<b>208,969</b>	<b>225,358</b>	<b>(16,389)</b>	<b>(7.3%)</b>
<b>Salaries</b>				
Executive Offices	232,287	234,570	(2,283)	(1.0%)
Finance & Administration	67,835	74,550	(6,715)	(9.0%)
Member Services & Communications	302,123	310,770	(8,647)	(2.8%)
Professional Standards	162,498	162,866	(368)	(0.2%)
<b>Total Salaries Expense</b>	<b>764,743</b>	<b>782,756</b>	<b>(18,013)</b>	<b>(2.3%)</b>
<b>NonLabor Summary</b>				
Executive Offices	166,050	174,163	(8,113)	(4.7%)
Finance & Administration	267,946	297,521	(29,575)	(9.9%)
Member Services & Communications	259,403	292,276	(32,873)	(11.2%)
Professional Standards	12,490	28,618	(16,128)	(56.4%)
<b>Total NonLabor Expense</b>	<b>705,889</b>	<b>792,578</b>	<b>(86,689)</b>	<b>(10.9%)</b>

State Bar of Michigan  
Statement of Revenue, Expense and Net Assets  
For the two months ending November 30, 2018  
**YTD FY 2018 Increase (Decrease) in Net Position Summary**

	Actual YTD	Budget YTD	Variance	Percentage	Last Year Actual YTD
Operating Revenue					
- Dues and Related	1,280,588	1,271,742	8,846	0.7%	1,273,888
- All Other Op Revenue	294,358	269,232	25,126	9.3%	264,468
Total Operating Revenue	<u>1,574,946</u>	<u>1,540,974</u>	<u>33,972</u>	<u>2.2%</u>	<u>1,538,356</u>
Operating Expenses					
- Labor-related Operating Expenses					
Salaries	764,743	782,756	(18,013)	(2.3%)	744,594
Benefits and PR Taxes	342,278	373,885	(31,607)	(8.5%)	316,349
Total Labor-related Operating Expenses	<u>1,107,021</u>	<u>1,156,641</u>	<u>(49,620)</u>	<u>(4.3%)</u>	<u>1,060,943</u>
- Non-labor Operating Expenses					
Executive Offices	166,050	174,163	(8,113)	(4.7%)	155,997
Finance & Administration	267,946	297,521	(29,575)	(9.9%)	273,427
Member & Communication Services	259,403	292,276	(32,873)	(11.2%)	288,437
Professional Standards	12,490	28,618	(16,128)	(56.4%)	23,513
Total Non-labor Operating Expenses	<u>705,889</u>	<u>792,578</u>	<u>(86,689)</u>	<u>(10.9%)</u>	<u>741,374</u>
Total Operating Expenses	<u>1,812,910</u>	<u>1,949,219</u>	<u>(136,309)</u>	<u>(7.0%)</u>	<u>1,802,317</u>
Operating Income (Loss)	<u>(237,964)</u>	<u>(408,245)</u>	170,281	N/A	<u>(263,961)</u>
Nonoperating Revenue (Expenses)					
Investment Income	32,747	29,167	3,580	12.3%	22,733
Investment Income - Ret HC Trust	3,091	0	3,091	N/A	0
Net Nonoperating revenue (expenses)	<u>35,838</u>	<u>29,167</u>	<u>6,671</u>	<u>22.9%</u>	<u>22,733</u>
<b>Increase (Decrease) in Net Position</b>	<b><u>(202,126)</u></b>	<b><u>(379,078)</u></b>	<b><u>176,952</u></b>	<b><u>N/A</u></b>	<b><u>(241,228)</u></b>
Net Position - Beginning the Year	<u>12,800,771</u>	<u>12,800,771</u>	<u>0</u>	<u>0.0%</u>	<u>12,277,875</u>
<b>Net Position - Year-to-Date</b>	<b><u>\$12,598,645</u></b>	<b><u>\$12,421,693</u></b>	<b><u>\$176,952</u></b>	<b><u>1.4%</u></b>	<b><u>\$12,036,647</u></b>

State Bar of Michigan  
Administrative Fund  
FY 2019 Capital Expenditures vs Budget  
For the two months ending Nov 30, 2018

	YTD Actual	YTD Budget	YTD Variance	Variance Explanations	Total Approved FY 2019 Budget	FY 2019 Year-End Forecast	Projected Year-end Variance
<b><u>Building and Equipment</u></b>							
Electrical panel upgrade	0	0	0		35,000	35,000	0
Replacement of carpet (2nd, 3rd, 4th)	0	0	0		65,000	65,000	0
Elevator upgrade	0	0	0		50,000	50,000	0
Replacement of floor copiers	0	0	0		35,000	35,000	0
Meeting room technology upgrades	0	0	0		25,000	25,000	0
<b><u>Information Technology</u></b>							
e-commerce dues updates	10,000	0	10,000	Unplanned work on e-commerce site	0	15,000	15,000
Windows server OS 2016	0	0	0		22,000	22,000	0
Update/redesign Pro Hac Vice site ph 3	2,500	2,500	0		10,000	10,000	0
Web services tool for courts	0	0	0		10,000	10,000	0
C&F Board of Law Examiners portal	7,500	7,500	0		45,000	45,000	0
Firm administration application	0	0	0		10,000	10,000	0
e-service application for court e-filing (e-mail addresses)	0	0	0		20,000	20,000	0
Firm billing/invoices for dues	0	0	0		10,000	10,000	0
Lawyer referral consumer portal	5,000	5,000	0		45,000	45,000	0
Application for soliciting volunteers for committees & work groups phase 2	0	0	0		10,000	10,000	0
Client Protection Fund portal	0	0	0		20,000	20,000	0
<b>Total</b>	<b><u>\$25,000</u></b>	<b><u>\$15,000</u></b>	<b><u>\$10,000</u></b>		<b><u>\$412,000</u></b>	<b><u>\$427,000</u></b>	<b><u>\$15,000</u></b>

Note: Expect to be under on other projects to offset the identified overage on the e-commerce site

**STATE BAR OF MICHIGAN  
CLIENT PROTECTION FUND**

**Unaudited and For Internal Use Only**

**FINANCIAL REPORTS  
November 30, 2018**

**FY 2019**

Note: Dues revenue is recognized and budgeted as earned each month throughout the year.

State Bar of Michigan  
Client Protection Fund  
Comparative Statement of Net Assets  
For the Months Ending Sept 30, 2018 and Nov 30, 2018  
FY 2019

	Sept 30, 2018	Nov 30, 2018	Increase (Decrease)	%	Beginning of FY 2019 October 1, 2018
<b>Assets</b>					
Cash	288,570	305,485	16,915	5.9%	288,570
Investments (CD's & CDARS)	1,556,307	1,556,307	0	0.0%	1,556,307
Accounts Receivable	175,001	170,137	(4,864)	(2.8%)	175,001
Due from (to) Administrative Fund	(15,354)	253,465	268,819	N/A	(15,354)
Accrued Interest Receivable	9,610	12,917	3,307	34.4%	9,610
<b>Total Assets</b>	<b>\$ 2,014,134</b>	<b>\$ 2,298,311</b>	<b>\$ 284,177</b>	<b>14.1%</b>	<b>\$ 2,014,134</b>
<b>Liabilities</b>					
Accounts Payable	0	0	0	N/A	0
Unearned Revenue	4,380	473,605	469,225	10712.9%	4,380
<b>Total Liabilities</b>	<b>\$ 4,380</b>	<b>\$ 473,605</b>	<b>\$469,225</b>	<b>10712.9%</b>	<b>\$ 4,380</b>
<b>Net Position</b>					
Net Position at Beginning of Year	2,009,754	2,009,754	0	0.0%	2,009,754
Increase (Decrease) in Net Position	0	(185,048)	(185,048)	N/A	0
<b>Total Net Position</b>	<b>2,009,754</b>	<b>1,824,706</b>	<b>(185,048)</b>	<b>(9.2%)</b>	<b>2,009,754</b>
<b>Total Liabilities and Net Position</b>	<b>\$ 2,014,134</b>	<b>\$ 2,298,311</b>	<b>\$ 284,177</b>	<b>14.1%</b>	<b>\$ 2,014,134</b>

\* Note: In addition, there are authorized but unpaid claims totaling \$51,319 awaiting signatures of subrogation agreements.

State Bar of Michigan  
Client Protection Fund  
Statement of Revenue, Expenses, and Changes in Net Assets  
For the two months ending Nov 30, 2018  
FY 2019

	FY 2019 YTD	Last Year FY 2018 YTD
Revenue		
Contributions Received	14,430	0
Membership Dues Assessment	107,270	107,562
Pro Hac Vice Fees	2,685	2,160
Claims Recovery	2,486	5,856
Miscellaneous Income	0	0
<b>Total Revenue</b>	<b>126,871</b>	<b>115,578</b>
Expense		
Claims Payments *(See note below)	280,486	309,241
Administrative Fee	35,333	33,390
Litigation and Miscellaneous Expense	0	0
<b>Total Expense</b>	<b>315,819</b>	<b>342,631</b>
Operating Income (Loss)	<b>(188,948)</b>	<b>(227,053)</b>
Investment Income	3,900	2,206
<b>Increase (Decrease) in Net Position</b>	<b>(185,048)</b>	<b>(224,847)</b>
<b>Net Position</b> - Beginning of the Year	<b>2,009,754</b>	
<b>Net Position</b> - End of the Period	<b>1,824,706</b>	

\* Note: In addition, there are authorized but unpaid claims totaling \$51,319 awaiting signatures of subrogation agreements.

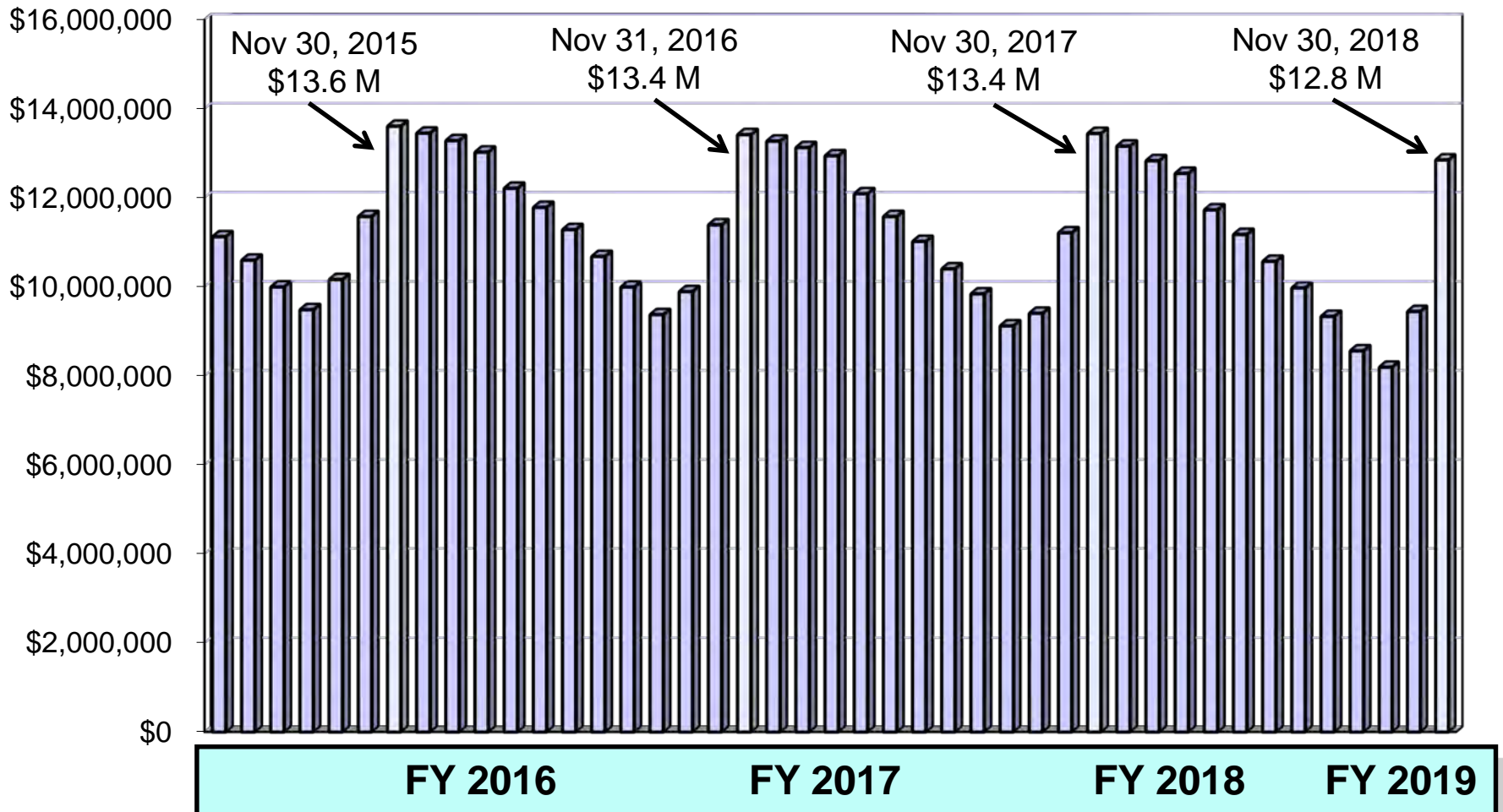
**Summary of Cash and Investment Balances by Financial Institution**  
11/30/2018

Assets	Bank Rating	Financial Institution Summary	Interest Rates	Fund Summary
		SBM Chase Checking \$ 1,083,400.97		Client Protection Fund \$ 1,861,790.97
		SBM Chase Credit Card \$ 1,130,899.64		State Bar Admin Fund (including Sections) \$ 16,392,509.44
		SBM Chase E Checking \$ 56,500.25		Attorney Discipline System \$ 6,503,218.26
		SBM Chase Payroll \$ -		SBM Retiree Health Care Trust \$ 3,034,016.83
		SBM Chase Savings \$ 250,646.72	0.18%	ADB Retiree Health Care Trust \$ 852,004.12
		ADS Chase Checking \$ 18,212.97		AGC Retiree Health Care Trust \$ 3,040,454.91
		CPF Chase Checking \$ 23,319.76		<b>Total</b> <b>\$ 31,683,994.53</b>
\$2.14 Trillion	4 stars	CPF Chase Savings \$ 6,173.77	0.18%	
		<b>Chase Totals</b> <b>\$ 2,569,154.08</b>		
	4 stars	ADS Bank of America Petty Cash \$ 1,578.62	0.00%	
		<b>Bank of America Totals</b> <b>\$ 1,578.62</b>		
	5 stars	SBM Fifth Third Commercial Now \$ 175,961.44	0.00% ***	
\$140 Billion		<b>Fifth Third Totals</b> <b>\$ 175,961.44</b>		
	4 stars	Grand River Bank Money Market \$ 319,450.37	1.25%	<b>State Bar Admin Fund Summary</b>
\$223 Million		<b>Grand River Bank Totals</b> <b>\$ 319,450.37</b>		Cash and Investments \$ 16,392,509.44
		<b>Grand River Bank Total w/CD</b> <b>\$ 817,978.06</b>		Less:
	5 stars	First Community Bank \$ 747,726.67	1.40%	Due (to)/from Sections (3,295,110.06)
\$288 Million		<b>First Community Bank Total</b> <b>\$ 747,726.67</b>		Due (to)/from CPF (253,465.19)
		<b>First Community Bank Total w/CD</b> <b>\$ 992,726.67</b>		
	5 stars	Sterling Bank \$ 2,316.42	0.40%	Due to Sections and CPF (3,548,575.25)
\$2.96 Billion		<b>Sterling Bank Total</b> <b>\$ 2,316.42</b>		Net Administrative Fund \$ 12,843,934.19
		<b>Sterling Bank Total w/CD</b> <b>\$ 977,316.42</b>		
	4 stars	Citizens Bank Checking \$ 100,100.00		<b>Maturity</b>
\$122 Billion		Citizens Bank Money Market \$ 1,755,514.42	1.50%	<b>SBM Average Weighted Yield: 1.71%</b>
		CPF Citizens Bank CD \$ 500,000.00	2.50%	<b>ADS Average Weighted Yield: 0.61%</b>
		<b>Citizens Bank Totals</b> <b>\$ 2,355,614.42</b>		<b>CPF Average Weighted Yield: 1.11%</b>
	5 stars	Mercantile Bank \$ 1,805,714.07	1.25%	Note: average weighted yields exclude retiree health care trusts
\$3.27 Billion		<b>Mercantile Bank Total</b> <b>\$ 1,805,714.07</b>		
	4 stars	Main Street Bank \$ 919,554.48	1.25%	Notes:
\$227.5 Million		<b>Main Street Bank</b> <b>\$ 919,554.48</b>		- All amounts are based on reconciled book balance and interest rates as of 11/30/2018
	5 stars	MSU Credit Union \$ 6.29	0.10%	- CDARS are invested in multiple banks up to the FDIC limit for each bank
\$3.85 Billion		<b>MSU Credit Union Total</b> <b>\$ 6.29</b>		- Funds held in bank accounts are FDIC insured up to \$250,000 per bank
		<b>MSU Credit Union Total w/CD</b> <b>\$ 1,900,006.29</b>		- The SBM funds held with Charles Schwab in the Retiree Health Care Trusts are invested in 70% equity and 30% fixed income mutual funds
		SBM Flagstar Savings Account \$ 1,403,010.62	1.25%	- As of 11/30/2018, the funds held by SBM attributable to ADS was \$3,536,820.61.
		ADS Flagstar Checking Account \$ 13,198.87	0.25%	* Flagstar Bank reserves the right to mature these CDARS at 12 months.
		ADS Flagstar CDARS - 12 Month \$ 1,123,407.19	0.80%	** Formerly Talmer West Bank
		ADS Flagstar CDARS - 12 Month \$ 810,000.00	1.35%	***Balance offsets lockbox fees by 0.35%.
		ADS Flagstar CDARS - 12 Month \$ 1,000,000.00	1.35%	****Actual unreconciled Chase balance per statements was \$1,667,393.24
		CPF Flagstar Savings \$ 275,990.81	1.25%	
		CPF Flagstar CDARS - 36 Month \$ 256,269.78	0.55%	
		CPF Flagstar CDARS - 24 Month \$ 450,036.85	0.75%	
		CPF Flagstar CDARS - 12 month \$ 350,000.00	0.70%	
\$16.8 Billion	4 stars	<b>Flagstar Bank Totals</b> <b>\$ 5,681,914.12</b>		
	4 stars	SBM - CD Chemical Bank ** \$ 235,000.00	1.75%	<b>Maturity</b>
\$19.2 Billion		SBM - CD Chemical Bank \$ 240,000.00	1.75%	10/28/19
		SBM - CD Chemical Bank \$ 240,000.00	1.75%	04/17/19
		SBM - CD Chemical Bank \$ 240,000.00	1.75%	04/17/19
		SBM - CD Chemical Bank \$ 240,000.00	1.75%	04/17/19
		SBM - CD Chemical Bank \$ 250,000.00	2.40%	02/25/20
		SBM - CD Chemical Bank \$ 250,000.00	2.40%	02/25/20
		SBM - CD Chemical Bank \$ 250,000.00	2.40%	02/25/20
	4 stars	SBM- CD First Community Bank \$ 245,000.00	1.00%	12/12/18
	4 stars	SBM - Grand River Bank \$ 253,527.69	2.50%	05/11/21
		SBM - Grand River Bank \$ 245,000.00	2.75%	10/17/20
\$3.9 Billion	4 stars	SBM-CD Horizon Bank \$ 240,000.00	1.00%	10/12/19
		SBM-CD Horizon Bank \$ 245,000.00	1.30%	03/14/19
		SBM-CD Horizon Bank \$ 245,000.00	1.30%	03/14/19
		SBM-CD Horizon Bank \$ 250,000.00	2.66%	04/25/21
		SBM-CD Horizon Bank \$ 250,000.00	2.66%	04/25/21
		SBM-CD Horizon Bank \$ 250,000.00	2.48%	04/25/20
		SBM-CD Horizon Bank \$ 250,000.00	2.48%	04/25/20
\$1.36 Billion	4 stars	SBM-CD First National Bank of America \$ 240,000.00	1.60%	10/12/19
		SBM-CD First National Bank of America \$ 245,000.00	2.60%	10/16/19
		SBM-CD First National Bank of America \$ 240,000.00	1.85%	10/16/20
		SBM-CD First National Bank of America \$ 240,000.00	1.85%	10/16/20
\$184.1 Million	2 stars	SBM-CD Community Shores Bank \$ 240,000.00	1.25%	10/15/19
\$192.4 Million	4 stars	SBM-CD Clarkston State Bank \$ 240,000.00	1.10%	10/12/19
		SBM-CD Clarkston State Bank \$ 240,000.00	1.75%	04/25/19
		SBM-CD Clarkston State Bank \$ 240,000.00	1.75%	04/25/19
		SBM-CD Clarkston State Bank \$ 240,000.00	1.75%	04/25/19
	5 stars	SBM-CD Sterling Bank \$ 245,000.00	1.55%	03/30/19
		SBM-CD Sterling Bank \$ 245,000.00	1.55%	03/30/19
		SBM-CD Sterling Bank \$ 245,000.00	1.55%	03/30/19
\$397 Million	4 stars	SBM-CD The Dart Bank \$ 240,000.00	1.25%	12/14/18
		SBM-CD The Dart Bank \$ 240,000.00	1.25%	12/14/18
		SBM-CD The Dart Bank \$ 240,000.00	1.25%	12/14/18
		SBM-CD The Dart Bank \$ 240,000.00	1.25%	12/14/18
	5 stars	SBM-CD MSU Credit Union \$ 235,000.00	2.05%	10/25/20
		SBM-CD MSU Credit Union \$ 235,000.00	2.05%	10/25/20
		SBM-CD MSU Credit Union \$ 235,000.00	2.05%	10/25/20
		SBM-CD MSU Credit Union \$ 235,000.00	2.05%	10/25/20
		SBM-CD MSU Credit Union \$ 240,000.00	2.61%	11/21/19
		SBM-CD MSU Credit Union \$ 240,000.00	2.61%	11/21/19
		SBM-CD MSU Credit Union \$ 240,000.00	2.61%	11/21/19
		<b>Bank CD Totals</b> <b>\$ 10,178,527.69</b>		
		<b>Total Cash &amp; Investments (excluding Schwab)</b> <b>\$ 24,757,518.67</b>		
		SBM - Charles Schwab (Ret HC Trust) \$ 3,034,016.83		Cash
		ADB - Charles Schwab (Ret HC Trust) \$ 852,004.12		Mutual Funds
		AGC - Charles Schwab (Ret HC Trust) \$ 3,040,454.91		Mutual Funds
		<b>Charles Schwab Totals</b> <b>\$ 6,926,475.86</b>		
		<b>Grand Total (including Schwab)</b> <b>\$ 31,683,994.53</b>		
		<b>Total amount of cash and investments (excluding Schwab) not FDIC insured</b> <b>\$ 16,850,264.79</b>	<b>68.06%</b>	

# **SBM Cash & Investment Balances**

*Excluding Sections, Client Protection Fund & Fiduciary Funds*

**November 30, 2018 - \$12.8 M**



Note: The State Bar has no bank debt outstanding. Amounts do not include retiree health care trust.



**Monthly SBM Member Report - November 30, 2018**

**FY 2019**

<u>Attorney Members and Affiliates In Good Standing</u>	September 30	September 30	September 30	September 30	September 30	September 30	Current Fiscal Year	
	2013	2014	2015	2016	2017	2018	November 30 2018	FY Increase (Decrease)
Active	40,475	41,093	41,608	41,921	42,100	42,342	42,646	304
Less than 50 yrs serv	39,335	40,036	40,490	40,725	40,833	40,973	41,084	111
50 yrs or greater	1,140	1,057	1,118	1,196	1,267	1,369	1,562	193
Voluntary Inactive	1,263	1,211	1,218	1,250	1,243	1,169	1,140	(29)
Less than 50 yrs serv	1,231	1,184	1,195	1,230	1,217	1,142	1,104	(38)
50 yrs or greater	32	27	23	20	26	27	36	9
Emeritus	1,391	1,552	1,678	1,841	1,973	2,204	2,282	78
<b>Total Attorneys in Good Standing</b>	<b>43,129</b>	<b>43,856</b>	<b>44,504</b>	<b>45,012</b>	<b>45,316</b>	<b>45,715</b>	<b>46,068</b>	<b>353</b>
<b>Dues Paying Members (Active &amp; Inactive less than 50 yrs of Serv)</b>	<b>40,566</b>	<b>41,220</b>	<b>41,685</b>	<b>41,955</b>	<b>42,050</b>	<b>42,115</b>	<b>42,188</b>	<b>73</b>
Affiliates								
Legal Administrators	19	14	13	13	13	10	11	1
Legal Assistants	433	413	425	405	400	401	410	9
<b>Total Affiliates in Good Standing</b>	<b>452</b>	<b>427</b>	<b>438</b>	<b>418</b>	<b>413</b>	<b>411</b>	<b>421</b>	<b>10</b>
<b>Total Attorney Members and Former Members in the Database</b>								
State Bar of Michigan Member Type	September 30 2013	September 30 2014	September 30 2015	September 30 2016	September 30 2017	Sept 30 2018	November 30 2018	FY Increase (Decrease)
<b>Attorney Members in Good Standing:</b>								
ATA (Active)	40,475	41,093	41,608	41,921	42,100	42,342	42,646	304
ATVI (Voluntary Inactive)	1,263	1,211	1,218	1,250	1,243	1,169	1,140	(29)
ATE (Emeritus)	1,391	1,552	1,678	1,841	1,973	2,204	2,282	78
<b>Total Members in Good Standing</b>	<b>43,129</b>	<b>43,856</b>	<b>44,504</b>	<b>45,012</b>	<b>45,316</b>	<b>45,715</b>	<b>46,068</b>	<b>353</b>
<b>Attorney Members Not in Good Standing:</b>								
ATN (Suspended for Non-Payment of Dues)	5,248	5,427	5,578	5,743	5,888	6,072	6,046	(26)
ATDS (Discipline Suspension - Active)	400	407	415	418	430	439	440	1
ATDI (Discipline Suspension - Inactive)	10	12	11	18	19	19	19	0
ATDC (Discipline Suspension - Non-Payment of Court Costs)	1	1	3	3	16	15	15	0
ATNS (Discipline Suspension - Non-Payment of Other Costs)	76	83	92	99	94	95	95	0
ATS (Attorney Suspension - Other)*	1	1	1	1	0	1	0	(1)
ATR (Revoked)	519	521	517	534	562	583	584	1
ATU (Status Unknown - Last known status was inactive)**	2,174	2,088	2,076	2,074	2,070	2,070	2,070	0
<b>Total Members Not in Good Standing</b>	<b>8,429</b>	<b>8,540</b>	<b>8,693</b>	<b>8,890</b>	<b>9,079</b>	<b>9,294</b>	<b>9,269</b>	<b>(25)</b>
<b>Other:</b>								
ATSC (Former special certificate)	134	136	140	145	152	155	157	2
ATW (Resigned)	1,354	1,429	1,483	1,539	1,612	1,689	1,734	45
ATX (Deceased)	7,797	8,127	8,445	8,720	9,042	9,287	9,316	29
<b>Total Other</b>	<b>9,285</b>	<b>9,692</b>	<b>10,068</b>	<b>10,404</b>	<b>10,806</b>	<b>11,131</b>	<b>11,207</b>	<b>76</b>
<b>Total Attorney Members in Database</b>	<b>60,843</b>	<b>62,088</b>	<b>63,265</b>	<b>64,306</b>	<b>65,201</b>	<b>66,140</b>	<b>66,544</b>	<b>404</b>

\* ATS is a new status added effective August 2012 - suspended by a court, administrative agency, or similar authority

\*\* ATU is a new status added in 2010 to account for approximately 2,600 members who were found not to be accounted for in the iMIS database. The last known status was inactive and many are likely deceased. We are researching these members to determine a final disposition.

N/R - not reported

Notes: Through Nov 30, 2018, a total of 404 new members joined the SBM in FY 2019



To: Members of the Board of Commissioners

From: Receivership Workgroup  
Alecia Ruswinckel, Assistant Division Director, Professional Standards  
Kathryn L. Hennessey, Public Policy Counsel

Date: January 8, 2019

Re: Introduction to Proposed Interim Administrator Program

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Based on recommendations set forth in the 21<sup>st</sup> Century Practice Task Force Report, the Receivership Workgroup has been tasked with creating a comprehensive program to protect members of the public, particularly clients, when an attorney becomes unable to continue practicing law with no plan in place to ensure an effective transition of the practice. Based on research and a review of programs in other states, the workgroup is working on a recommendation for SBM to develop an interim administrator program to help ensure that clients, their cases, and the attorney's law practice are protected should an attorney become unable to practice law.

This memorandum is intended to serve as an introduction to the major components of the proposed program to provide the Board of Commissioners with an opportunity to ask questions and offer feedback.

### **1. The Problem the Interim Administrator Program Seeks to Address**

As representatives of clients, attorneys perform a multitude of functions, including advisor, advocate, negotiator, intermediary, and evaluator. In each of these roles, attorneys strive to be competent, prompt, and diligent, representing their clients to the best of their abilities while maintaining the confidentiality of the information that their clients have entrusted in them. Despite the fact that these important ethics-based functions are most commonly ongoing and open-ended in relation to individual clients, many attorneys do not have a plan in place to protect their clients should the attorney become unable to carry out his or her duties due to death or disability.

When an attorney in private practice cannot practice law unexpectedly, a number of things should happen to protect clients, the law practice, and the public, including:

- Clients must be notified;
- Pending litigation must be stayed;
- Pending cases must be transferred to a new attorney;
- Client files must be transferred to new attorneys, returned to clients, or destroyed;
- The law practice may need to be wound down by a competent attorney;
- Funds held in trust for clients must be returned;

- Employees, rent, and other bills must be paid; and
- The attorney's outstanding fees must be billed and collected.

Succession plans can play a key role in ensuring that both the law practice and its clients are protected should an attorney become unable to practice law. Currently, Michigan has limited resources to protect clients and assist a law practice if an attorney does not have a succession plan in place. Under MCR 9.119(G), the Attorney Grievance Commission (AGC) administers attorney receiverships.<sup>1</sup> The rule provides that if the incapacitated attorney is a member of a law firm, the law firm may continue to represent the attorney's clients with the clients' consent. For solo practitioners, the AGC often asks a judge to appoint a receiver with powers including inventorying the attorney's files, protecting the interests of the attorney and clients, and securing the attorney's trust account.

Often, however, the AGC has difficulty locating an attorney willing to wind down the law practice due to the lack of funds available and the significant amount of work required. Moreover, MCR 9.119(G) does not provide for funding or the ability to manage the firm or access to the operating account.<sup>2</sup> Often, the receiver's role is limited to returning files to clients. This leaves non-attorney family or staff members with the responsibility of winding down the law practice and raises a number of concerns, for example:

- **Attorney-Client Privilege.** A non-attorney may not understand the ethical obligations owed to client information when handling and returning client files. Further, a non-attorney is not bound by the Rules of Professional Conduct, as such there is no recourse if there is a violation of attorney-client privilege.
- **Pending cases.** Non-attorneys may not take any legal action on pending files, including steps that require immediate attention, such as notifying courts and ensuring that the statute of limitations on pending matters does not run.
- **Funds held in trust.** Non-attorneys may not know that the funds held in an attorney trust account belong to clients and not to the estate, or how to differentiate between funds belonging to the practice and funds belonging to be returned to clients.
- **Funds held in operating accounts.** Sometimes the funds are actually those of clients and should be used to compensate clients and pay the law practice's bills.

Without a competent attorney winding down or transitioning a law practice, clients can suffer severe consequences, such as missing filing deadlines or court hearings in pending cases, being unable to locate vital documents and pleadings for their case, having the statute of limitations run on a cause of action, losing the right to appeal, or being unable to recover funds or property entrusted to the incapacitated attorney.

The need for Michigan to address this problem in a comprehensive way is great and growing. Over 50% of Michigan attorneys are over fifty and that number continues to grow as only 5% of attorneys are under 30. The median age of attorneys in Michigan is 53. Moreover, approximately 70% of attorneys in private practice are in firms with less than ten attorneys.<sup>3</sup>

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<sup>1</sup>Note that this is not the same as a receivership as provided for in MCR 2.622(F).

<sup>2</sup>Receiverships established under this rule do not have the same provisions or protections provided by MCR 2.622(F).

<sup>3</sup> State Bar of Michigan 2018-2019 Statewide and County Demographics.

## **2. SBM Interim Administrator Plan**

The Receivership Workgroup has been working on a recommendation that SBM implement an Interim Administrator Program (SBM IAP). There would be two types of interim administrators (IA): (1) an individual designated in advance by the attorney (IDIA) or (2) an individual chosen by SBM at the time of need (SBM IA). With each annual licensing statement, attorneys would be required to designate an IDIA or, for an annual fee, participate in a program where SBM would provide a SBM IA to wind down the affected attorney's<sup>4</sup> practice in the event of the affected attorney's death, disability, discipline, or disappearance. The IAP would serve the public, particularly clients, as well as the affected attorney and/or his or her estate, to ensure that cases are properly handled should the affected attorney become unable to practice.

### **a. Background**

The IAP proposal grew out of recommendations by the American Bar Association (ABA) and the SBM 21<sup>st</sup> Century Practice Task Force. Recognizing this growing problem, in 2007, the ABA recommended that states adopt a mandatory succession planning rule to protect the public in the event that an affected attorney, with no backup, becomes unable to practice law.<sup>5</sup> The SBM 21<sup>st</sup> Century Practice Task Force Report recommended that SBM form a workgroup to review the current AGC receivership program, provide options to expand the services offered, and facilitate transition of the handling of such matters from AGC to SBM.

Based on these recommendations, SBM formed the Receivership Workgroup in May 2018. The workgroup included staff of the AGC, members of the Master Lawyers Section, judiciary, and practitioners who have acted as receivers in various types of cases.<sup>6</sup>

### **b. Components of the SBM Interim Administrator Program**

As part of its due diligence, the Receivership Workgroup reviewed receivership programs and succession planning requirements from numerous jurisdictions. All jurisdictions have a mechanism which creates authority for another person to step in and, at a minimum, return client files when an attorney is no longer able to practice. A few states have a variation of a mandatory succession planning rule.

Based upon this review, the workgroup concluded that none of these programs is comprehensive enough to fully address this growing problem.<sup>7</sup> Many programs lack adequate financial resources to

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<sup>4</sup> The proposed rules use the term "affected attorney" to describe an attorney who is no longer able to practice law due to death, disability, disappearance, or discipline.

<sup>5</sup> [Home](#) > [ABA Groups](#) > [Center for Professional Responsibility](#) > [Resources](#) > [Attorneys in Transition – Resources related to end-of-career issues](#)

<sup>6</sup> Workgroup members: Alan M. Gershel P29652, Rhonda Pozehl P38854, Erin Bednarski (AGC paralegal), Yuily Osipov P59486, David M. Findling P43256, Michael H. Dettmer P12709, and Judge Tomas Byerley P28937.

<sup>7</sup> At the National Organization of Bar Counsel meeting in August 2018, Texas reported that in the eight months after expanding their program to attempt to meet the needs of their members, the state was involved either directly or in facilitating the appropriate winding down of 125 law practices. The speaker further reported that this was only

address the growing need for assistance with winding down practices.<sup>8</sup> In addition, programs in other states fail to provide appropriate checks and balances to ensure that attorneys have a succession plan in place and that the person they claim will wind down the practice has in fact agreed to do so.

Therefore, the workgroup has been working on a recommendation that SBM implement a new type of program that would require attorneys in private practice, as part of their annual Dues Disclosures, to nominate an IA to act in the event that the attorney is unable to practice law and needs assistance to continue or wind down their practice. Attorneys would have the option to appoint an attorney or law firm as their IA or, for a fee, participate in an IAP administered by SBM.

### **i. Appointment of an IA**

Under the SBM IAP, attorneys in private practice would be required appoint an IA. Attorneys would have two ways to fulfill this requirement: (1) appoint their own IA or (2) participate in the SBM IAP.

Attorneys may choose as their own individually designated interim administrator (IDIA) either another attorney or law firm; the latter would be the obvious choice for attorneys in multi-person law firms. An IDIA must be an active Michigan attorney or law firm consisting of at least two active Michigan attorneys. To formalize the choice, the attorney would provide SBM with the chosen attorney's or firm's name and SBM would verify that the chosen IDIA accepts this responsibility.<sup>9</sup> As part of the implementation process, the workgroup recommends that SBM create tools to help attorneys who choose to appoint their own IDIA, including succession planning guides, acceptance forms, and steps for clients and an attorney's family to take in the event of an attorney's unexpected inability to practice law.<sup>10</sup>

Alternatively, the attorney could choose to participate in the SBM IAP under which, for an annual fee,<sup>11</sup> SBM would facilitate appointment of an SBM IA should the attorney become unable to practice law. The program in effect functions as insurance for the attorney and the attorney's clients. Attorneys could change their choice of IDIA or participation in the SBM IAP from year to year.

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a fraction of the practices that needed assistance. *Riding the Silver Tsunami: Hang 10 or Hang it Up?* National Organization of Bar Counsel Annual Meeting, August 2, 2018.

<sup>8</sup> This has been the topic of numerous national conversations by those involved in bar association and discipline work.

<sup>9</sup> If the nominated IA does not confirm nomination, the attorney would be required to pay the IAP fee to remain active and in good standing. Numerous, calculated reminders would be sent to ensure that no member is inadvertently deemed suspended for non-payment of dues.

<sup>10</sup> Other resources will include publicizing and amending the [Planning Ahead](#) guide, as necessary, and bolstering the resources available for [record retention](#) and [closing a firm](#). An IA job description, motion templates, order templates, and IA training documents will be developed for the IAP.

<sup>11</sup> The fees collected from the attorneys participating in the IAP would be used to establish an IAP Fund to compensate IAs acting on behalf of the IAP, train attorneys to serve as IAs, provide succession planning assistance and training for members, and provide outreach efforts.

## **ii. IA Responsibilities**

In the event that an attorney is unable to continue to practice law and has pending client matters or files to be managed, the IA (either IDIA or SBM IA) would determine the steps required to effectively continue or wind down the practice.

The IA would have the authority to continue, sell, or wind down the affected attorney's practice. Often, the IA would wind down the practice, but if the affected attorney is only temporarily unable to practice law due to a medical emergency or disciplinary suspension, the IA would take steps to protect the clients while continuing the firm if practicable. Duties and powers of the IA would include protection of client information, client files, and property. The attorney-client privilege would attach, conflicts of interest would be addressed, and IAs would have civil immunity from suits deriving from conduct undertaken in good faith. Where appropriate, the IA would run the office in the interim, including paying overhead and maintaining staff, while completing an orderly shutdown or sale of the practice or until the affected attorney is able to resume the practice of law.

## **iii. IAP Staff Responsibilities**

To administer the program, SBM would hire an additional staff attorney and paralegal. If the affected attorney has matters which require legal authority to act, such as access to trust or business accounts, SBM IAP would be responsible for filing an *ex parte* petition in the probate court for the county where the affected attorney lived or maintained an office, seeking the appointment of an IA. The first choice for appointment would be the IDIA. Processes will be implemented to delineate the proceedings, order of appointment, and opportunity to object.

An SBM IAP staff attorney and paralegal would be responsible for filing the *ex parte* petition for appointment for all court-appointed IAs. In addition to winding down some practices, staff would be responsible for fielding calls related to deceased, disabled, disbarred, and disciplined attorney matters. The AGC reports an average of ten calls per week, the resolution of which may raise issues requiring extensive research or the filing of a petition seeking the appointment of a receiver. The SBM IAP staff would also provide guidance, when needed, for all IAs to ensure effective procedures are taken to wind down the practice. Moreover, staff would provide outreach, education, and guidance regarding succession planning and what steps other attorneys and judges should take if a colleague is unable to continue to practice.

In some instances, the IA appointed through the SBM IAP would be an attorney in geographic and practice area of the affected attorney. However, the SBM IAP staff attorney will serve in this capacity when necessary.

## **iv. IA Compensation and the IAP Fund**

IAs may be compensated for their services. The first source of compensation would be the affected attorney's practice or estate. For attorneys acting as an IA on behalf of the SBM IAP, if the practice or estate cannot provide sufficient compensation, the SBM IA would be compensated from the SBM IAP Fund, which would be primarily funded by the annual fee paid by IAP participants. Appropriate compensation would be calculated pursuant to an outline of fees established through the IAP and

approved by the court overseeing the appointment of the IA or, if the court is not involved, through an approval process authorized by the Supreme Court.

For attorneys who opt out of the SBM IAP and appoint their own IA, that IA would be compensated through the affected attorney's practice or estate pursuant to a uniform agreement setting forth the responsibilities and compensation for the IA. The IA, however, would not be entitled to any additional compensation from the IAP Fund unless the services are extraordinary, such as an unusually excessive number of cases or files that require an exhaustive amount of time to review.

### **c. Rule Changes to Implement Program**

A number of rules will need to be changed to implement the program, including:

- SBR 2 would be amended to require selection of an Interim Administrator;
- SBR 4 would be amended to authorize the funding structure;
- MCR 9.119(G) would be amended and the definition of receiver would be removed; and
- A new MCR would outline the responsibilities of an Interim Administrator.

### **3. Next Steps**

Prior to submitting the proposal for SBM consideration, the workgroup would like to get member feedback by conducting a number of focus groups and seeking feedback from relevant sections, including the Solo & Small Firm Section.

### **4. Conclusion**

The workgroup believes the SBM IAP will help ensure that clients, law practices, and the public are protected when attorneys become unexpectedly unable to practice law. While the program requires attorneys to contemplate what will happen should they unexpectedly become incapacitated, the program gives attorneys the choice on how to handle this by either appointing their own IA or participating in the SBM IAP. The program would also set forth more clearly the avenues in which IAs may be compensated and provide resources and tools for attorneys and clients. In sum, the SBM IAP would be a vast improvement to the current resources available to attorneys and better protect the public when an attorney becomes unable to practice law.

The workgroup looks forward to receiving feedback on this proposed program from the Board of Commissioners and SBM members.



**TALI**

**SBM**  
STATE BAR OF MICHIGAN

## **Tali and the State Bar of Michigan Member Benefit Program**

Attn: Kari Thrush, Member Services  
Prepared by: Matthew Volm, CEO  
November 2018

**TALI**



## Executive Summary

Thank you for the opportunity to submit a proposal for the State Bar of Michigan Member Benefit Program. It has been a pleasure working with the State Bar of Michigan team up to this point, and we look forward to a continued partnership going forward.

Details of our proposal can be found in the pages that follow, but the key points are directly below:

- **Member Benefit:** Lifetime discount of 10% on the subscription price of Tali
- **Revenue Share:** 10% revenue share with the State Bar of Michigan for any revenue generated through the Member Benefit Program
- **Committed Marketing Spend:** commitment to participate in the State Bar of Michigan Annual Meeting or Bar Leadership Forum/Upper Michigan Legal Institute as a partner vendor at the partner discount price or as a sponsor

Tali has a member benefit partnership with the Ohio State Bar Association (OSBA), the Bar Association of San Francisco (BASF), the Florida Bar (TFB), and the Arizona Bar (not yet announced) and is currently going through the board and committee approval process with several other state and local Bar Associations as well.

As an early-stage company, we recognize the immense value of early partnerships. This is especially true when it comes to our first technology integration partnerships with Clio, Rocket Matter and Practice Panther, two of which are existing SBM member benefits. This makes a partnership between the State Bar of Michigan and Tali even more valuable for the State Bar of Michigan and its members, and we look forward to developing this relationship as we move forward.

## Partner Information

### Company Overview and Contact Information

Tali is a cutting edge voice technology company based in Portland, Oregon. The company was founded in February, 2017 and is backed by [SoFi Ventures](#), the corporate venture arm of SoFi Financial, [Mucker Capital](#), a venture capital firm based in Santa Monica, California, and the [Geekdom Fund](#), a venture capital firm based in San Antonio, Texas. As of November, 2018, over 1,200 law firms, consulting firms, freelancers and other professionals from across the globe have signed up for Tali.

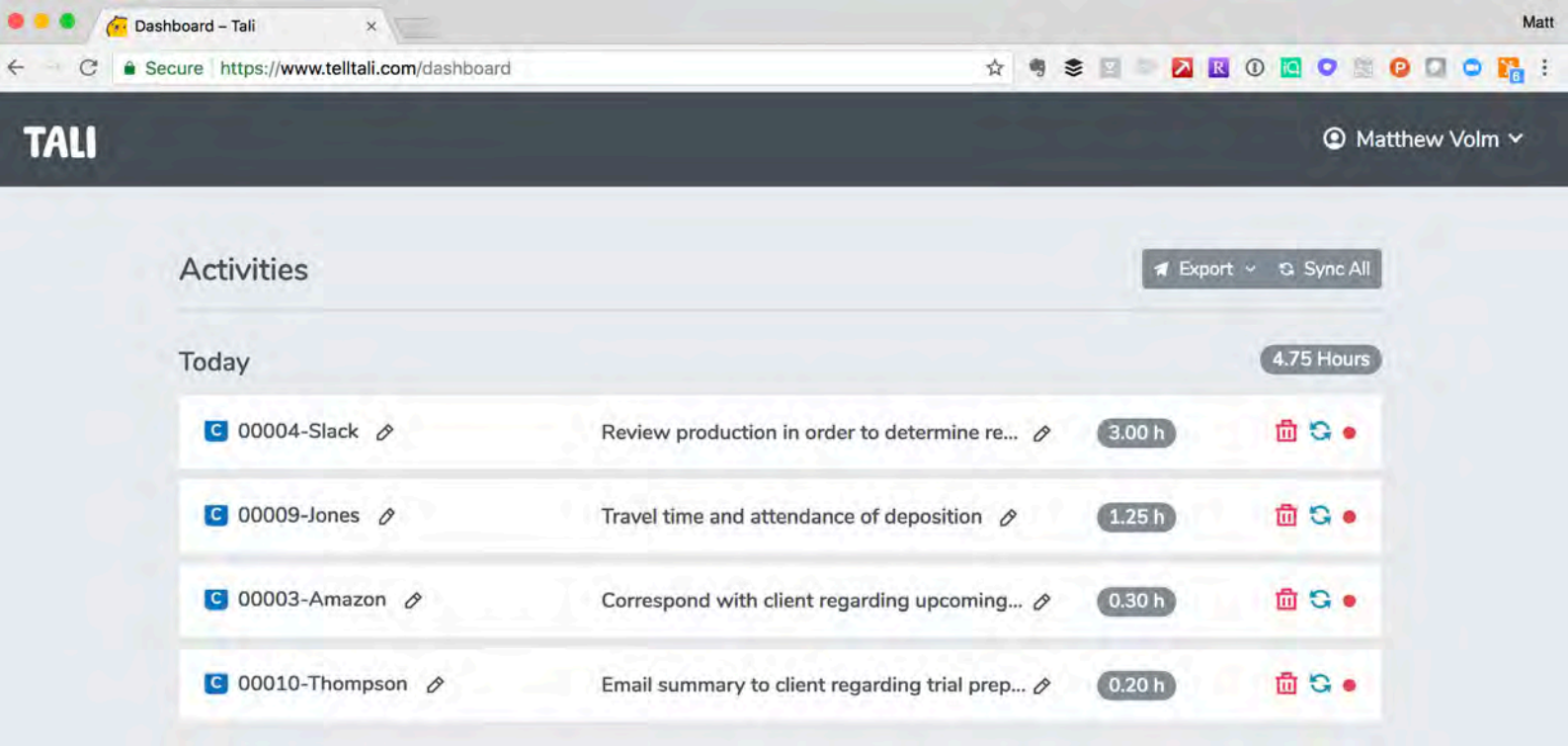
Matthew Volm, CEO of Tali, is your contact person for this proposal. He can be reached by phone at 920-251-9122 or e-mail at [volm@talltali.com](mailto:volm@talltali.com). Please feel free to contact him at any time with any questions you may have.

### Product Overview

Tali is your conversational time-tracking assistant, powered by Amazon Alexa and Google Assistant. With Tali, State Bar of Michigan members can track and log their time using nothing more than their voice through any Amazon Alexa-enabled or Google Assistant-enabled device, like an Amazon Echo smart speaker. [Click here](#) to see a brief video overview of Tali for Amazon Alexa.

Tali is also available on mobile devices through the Amazon Alexa app and Google Assistant app (both iPhone and Android). On Google Assistant, you can even go beyond voice and use your thumbs to chat and send messages to Tali. [Click here](#) to see a brief video overview of Tali for Google Assistant on your mobile device.

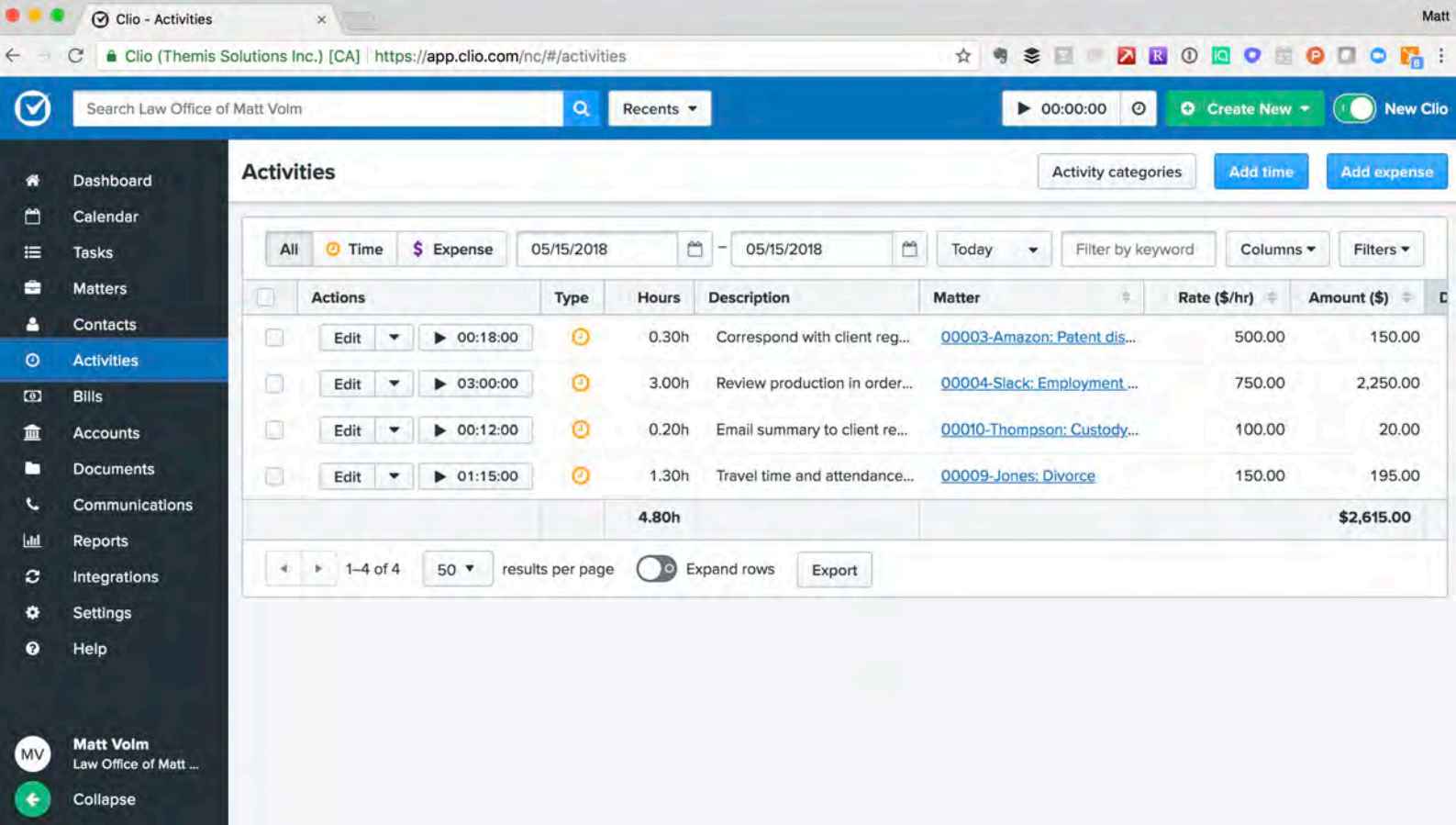
With Tali, time capture has never been easier. State Bar of Michigan members can simply say “Alexa, tell Tali to log 12 minutes to Thompson for e-mail summary to client regarding trial preparation.” Tali will capture this information, and record it for you in your Tali dashboard, as seen on the following page.



From there, State Bar of Michigan members can modify, edit or adjust any of their time entries, all in one place. No more collecting post-it notes, sifting through e-mail inboxes or going through call logs at the end of the day, week or month in order to record time. Instead, State Bar of Michigan members can go to their Tali dashboard, where all of their time is captured and recorded in one place.

However, the value doesn't stop there. Tali also integrates with existing invoicing and billing systems, completely eliminating the chore of manual time entry, all with a single click of a button.

By hitting "Sync All" from the Tali dashboard, the State Bar of Michigan member sends their information off to their 3rd party invoicing and billing system. Tali does the rest of the work and automatically creates a time entry for the user, completely automating this manual task. See below example, which shows the above information after it is synced to Clio.



Tali currently integrates with Clio, as well as Rocket Matter and Practice Panther. Users can also export their time entries from Tali to a Microsoft Excel file, and Tali has planned 3rd party integrations with other invoicing/billing systems, such as Xero and Quickbooks, among others.

## Security and Technical Specifications

From a hardware perspective, an Amazon Echo is no different than the smartphone you carry in your pocket or the laptop you have on your desk - each has a microphone, and grants applications access to that microphone after a user agrees to do so.

Once the voice to text data is captured by an Amazon Echo or smartphone, it is stored in the cloud, where it is heavily encrypted and secured by Tali and the cloud providers (in our case, Microsoft and Amazon). Professionals across every industry, including legal, have already adopted cloud software. Tali works closely with trusted third-party leaders in data security to rigorously ensure that your information is secure. This kind of protection offers enhanced security over that found in any typical office.

# The State Bar of Michigan Program Proposal

## State Bar of Michigan Member Benefit

Tali's value proposition is two fold - 1) automating the manual task of time entry saves time and 2) making time capture easier allows State Bar of Michigan members to capture all of their billable time accurately.

Tali can save State Bar of Michigan members 10-12 hours of manual effort per month, time they would otherwise spend on the manual task of time entry. In addition, Tali can capture an incremental 15 hours of billable time per month, time that was otherwise lost due to poor time keeping. That's 25 hours per month in total and, at a bill rate of \$250/hr, translates into \$75,000 of value per person per year.

## Member Discounted Pricing and Terms

Current retail pricing for Tali is \$12 per user per month with a month to month contract term or \$10 per user per month with an annual contract term. For State Bar of Michigan members, Tali will provide a discount of 10% on the subscription price of Tali.

## Non-Dues Revenue Opportunity

Tali would like to partner with the State Bar of Michigan to actively market the discounted pricing and the State Bar of Michigan member benefit that is being provided by Tali to State Bar of Michigan members. As such, Tali would like to encourage 1) adoption of the Tali solution and 2) continued use and retention. Given these goals, Tali will provide a 10% revenue share (after State Bar of Michigan member discounts) with the State Bar of Michigan for the lifetime of any member that signs up for Tali through the State Bar of Michigan member portal.

In addition, Tali will commit to participation in the State Bar of Michigan Annual Meeting or Bar Leadership Forum/Upper Michigan Legal Institute as a partner vendor at the partner discount price or as a sponsor as long as Tali is a member benefit.

## Customer References



**Tripp Burgunder**

Partner at PK Law

[hb3@pklaw.com](mailto:hb3@pklaw.com)

Tali customer since September 2017



**Ryan O'Connor**

Partner at O'Connor Weber

[ryan@oconnorweber.com](mailto:ryan@oconnorweber.com)

Tali customer since September 2017



**Julianne Frank**

Partner at Julianne Frank Law

[julianne@jrfesq.com](mailto:julianne@jrfesq.com)

Tali customer since December 2018





**CALENDAR**

RI	SAT
5	6
12	13
19	20
26	27

Learn from the best to ensure success. Reasons we will be successful.

# BUSINESS

Issue 764  
Monday, Jun 14, 2016  
#Citydailynews

## 25 great jobs for people who love to travel

It is a process to allow an organization to focus resources on the greatest opportunities to increase sales and achieve the company's target. Marketing strategy's goal is to increase sales and achieve advantage over other competitors. It includes short term and long term activities of marketing that has to do with the analysis of a company's situation and contribute to its objectives. The objectives will be based on how you gain sales by acquiring and keeping customers.

A marketing strategy helps on making good messages with the right twist of marketing approaches in order to have a good outcome of your sales and marketing activities.

Putting your strategy into action is how your marketing plan should work. Marketing budgets will be set, at the same time it will also show you how you're going to work with your targets, it maybe through networking, advertising etc. Having the perfect timing with your activities to fit your customers buying cycles will help you saving money and maximizing sales. The marketing plan should be innovative. It should have the details on how your sales are followed up and the activities your doing to develop your offers.

Lastly, improvement should be measured regularly and assessed in order for you to know what's beneficial and what is not. This will help you set new targets. Lastly, improvement should be measured regularly and assessed in order for you to know

## Economy of the European Union

Branding is defined as the process of coming up or making a unique name or design for a certain product. Having a good brand strategy allows you to have a major advantage in gaining a large increase in your market competitors. Your brand tells your customers what they can have or expect from the products and services you offer.

Are you innovative or are you the experienced type? or do you offer a high-cost, high-quality product, or a low-cost, high-value product? It's impossible to be both. You should consider when thinking what your customers need you to be. Your logo is the main foundation of your brand. All the promotional materials should be connected with your logo to communicate with your brand. Having a good brand strategy allows you to have a major advantage in gaining a large increase in your market competitors. Your brand tells your customers what they can have or expect from the products and services you offer. The branding strategy you have should be consistent as it leads to a strong brand equity. The branding strategy you have should be consistent as it leads to a strong brand equity.



### About Matthew Volm

Matt Volm is the CEO and Co-Founder of Tali, a next-generation timekeeping platform powered by conversational technology like Amazon Alexa. As a former CPA and husband to a practicing attorney, Matt has seen and experienced first hand the challenges associated with tracking time, and is now on a mission to make time tracking a less painful task. He holds his MBA from the University of California - Berkeley Haas School of Business and is a Wisconsin native. He has lost his Wisconsin accent, but will never lose his love for the Green Bay Packers.



### About Tali

Tali is your time-tracking assistant, powered by voice technology like Amazon Alexa and Google Assistant. Just use your voice to log your time, and sync to your billing system with the click of button, completely eliminating the chore of manual time entry. Current integration partners include Clio, Rocket Matter and Practice Panther.

## MEMORANDUM

**To:** Rob Buchanan  
Jennifer Grieco  
Ed Haroutunian  
Greg Ulrich

**cc:** Ron Keefe  
Janet Welch  
Cliff Flood  
Kari Thrush

**From:** Darin Day

**Date:** January 4, 2019

**Re:** Master Lawyers Section – A New Direction

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Attached is a memo dated August 29, 2018, from Ron Keefe to Janet Welch. Ron's memo sets forth the case for re-tooling the way the SBM serves and supports the master lawyers demographic and includes a recommendation to dissolve the Master Lawyers Section at the end of the current bar year (2018-2019). Subsequent discussions among the recipients of this memo have clarified three points.

First, we agree that the SBM should continue the following current activities, even after the dissolution of the Master Lawyers Section:

- (1) publish *The Mentor* newsletter three to four times per year;
- (2) maintain a Master Lawyers Discussion Group within SBM Connect, and continue to monitor those discussions for ideas about how the SBM might provide additional services or support to the master lawyers demographic;
- (3) provide important information and resources specific to the master lawyers demographic via the SBM website;
- (4) present occasional seminars concerning topics specific to the master lawyers demographic;
- (5) conduct occasional surveys to determine the needs of the master lawyers demographic and identify any additional services, educational topics, or activities, that may be worth pursuing; and
- (6) when necessary, create a short-term, mission-driven workgroup to address issues that may arise in the context of serving and supporting the master lawyers demographic and/or to move forward any innovative ideas that may not fit neatly within the framework outlined in this memo.

Second, it's been confirmed that oversight of these activities falls within the jurisdiction of the Communications and Member Services BOC Committee, and that staff can continue to manage the related day-to-day work with oversight from that committee and the BOC.

Third, we agree that staff should speak directly with members of the current Master Lawyers Section council to help them embrace (or at least accept) this plan and its rationale.



## MEMORANDUM

**To:** Janet Welch  
**cc:** Kari Thrush  
Darin Day  
**From:** Ron Keefe  
2017-2018 Master Lawyers Section Chair  
**Date:** August 29, 2018  
**Re:** Recommendation for Improvement Concerning State Bar Support of Master Lawyers

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I write to continue the conversation about how the State Bar of Michigan can best carry forth its commitment to serve and support the segment of our membership known as master lawyers. While serving as State Bar president in 2007, I established the Senior Lawyer Section Planning Group. This work led to the creation of the Master Lawyers Section (MLS) in 2010. After almost a decade of active participation in the transition from “senior lawyers” to “master lawyers,” including serving as MLS Chair in the 2017-2018 bar year, I want to offer my thoughts about the section and its success in promoting and supporting an active senior bar. I hope that you will review the proposal set forth at the end of this memo and then schedule a time to discuss it with me in more detail.

In June 2009, the BOC approved the “Senior Lawyer Section Planning Group Summary Report, Recommendations and Work Plan” (“the 2010 Plan”), which led to the formation of the MLS in May 2010. The 2010 Plan was organized into three main categories, as follows:

- **Programming**
- **Annual Activities**
- **Services to Members**

Under “**Programming**,” the 2010 Plan called for a focus on:

- a) Services to Members
- b) Protection of the Public
- c) Community Contributions including pro bono and mentorship

Under “**Annual Activities**,” the 2010 Plan recommended:

- a) Six council meetings
- b) Three electronic newsletters and one Bar Journal article
- c) A website presence
- d) A listserv (or online discussion group)

- e) One PMRC program
- f) Sending a representative to the ABA Senior Division mid-year and/or annual meeting(s)
- g) Section participation in the following SBM annual events:
  - Golden Celebration
  - Young Lawyers Summit
  - Annual Meeting (to include an educational program to benefit the master lawyers demographic)
  - Bar Leadership Forum
  - Pro Bono month
  - Law Day
  - Constitution Day

Under “**Services to Members,**” the 2010 Plan identified the following priorities:

- a) Support Senior Lawyers’ Ability to Continue to Practice
- b) Prepare Lawyers for Transition out of Practice
- c) Assist Members in Retirement Preparation
- d) Communicate and Market the Senior Section Value

In our eight years of experience implementing the 2010 Plan, three things have become clear.

1. The master lawyers priorities, services, and activities outlined in the 2010 Plan continue to be important and should remain a focus of the State Bar in some form.
2. Despite MLS membership numbering in the thousands, the work of supporting the 2010 Plan has always fallen to a small cadre of volunteer members supported by SBM staff. Further, the small size of this cadre has remained constant over the years despite a variety of attempts to inspire and engage additional master lawyers.
3. With its council meetings, committee meetings, annual meetings, special planning meetings, elections, annual reports, member surveys, substantial resources devoted to these activities including much staff time, extensive travel for council members, and a dedicated line item in the SBM’s annual budget, the existence of the MLS (with 19,660 members as of July 31, 2018) has not appreciably increased the effectiveness or reach of this small cadre of volunteers supported by SBM staff.

Thus, it is my considered opinion that the State Bar should continue to support the 2010 Plan in some form, but should do so without a formal State Bar Section for the master lawyers demographic. Instead, the State Bar should focus its resources – financial, staff, volunteer, and otherwise – directly on the following activities:

- (1) continue to publish *The Mentor* newsletter three to four times per year;
- (2) continue to maintain a Master Lawyers Discussion Group within SBM Connect, and continue to monitor those discussions for ideas about how the State Bar might provide additional services or support to the master lawyers demographic;
- (3) continue to host a webpage dedicated to connecting the master lawyers demographic with important information and resources;
- (4) continue to host occasional seminars designed specifically for the education and benefit of the master lawyers demographic;
- (5) continue to conduct occasional surveys to determine the needs of the master lawyers demographic and identify any additional support, services, or activities that may be worth pursuing; and
- (6) when necessary, create a short-term, mission-driven work group to address any particular issue that may arise within the context of serving and supporting the master lawyers demographic and/or to move forward any innovative ideas that may not fit neatly within the framework outlined in this memo.

### **Items to Discuss**

1. Whether (a) all six of these activities are worth pursuing and (b) SBM resources would be better allocated if we pursued them without a formal Master Lawyers Section.
2. If so, what infrastructure and resources would be needed to support these activities?
  - a. Is it appropriate to leave these activities in the hands of staff only?
  - b. Place these activities under the jurisdiction of a current committee?
  - c. Create a new committee? Maybe a committee that oversees all sections?
  - d. Invite current MLS members to create a more traditional voluntary section?
  - e. A combination of these?
3. What potential challenges would the bar face in pursuing the dissolution of the MLS?