

The meeting was called to order by President Diehl at 1:30 p.m. on Wednesday, September 21, 2005, at the State Bar of Michigan, Lansing Michigan. Commissioners present were:

Lori A. Buiteweg	Jeffrey E. Kirkey
Kimberly M. Cahill, Vice President	Craig H. Lubben
Bruce A. Courtade	Richard D. McLellan
Thomas W. Cranmer, President-Elect	Angelique Strong Marks
Nancy J. Diehl, President	Hon. William B. Murphy
Kim Warren Eddie	Lambro Niforos
Brian D. Einhorn	Edward H. Pappas, Treasurer
Elias J. Escobedo, Jr.	D. Andrew Portinga
Julie I. Fershtman	Kurt E. Schnelz
Kiffi Y. Ford	Hon. Cynthia D. Stephens
Edward L. Haroutunian	Scott C. Strattard
Elizabeth A. Jamieson, Assembly Chairperson	Charles R. Toy
W. Anthony Jenkins	Gregory L. Ulrich
Allyn D. Kantor	Debra A. Walling
Ronald D. Keefe, Secretary	

Commissioners Randolph P. Piper, Rodger D. Young and Michael S. Hohausser were absent and excused.

State Bar Staff Present:

John T. Berry – Executive Director
Nancy Brown – Director of Communications
Gregory Conyers – Program Administrator
Candace Crowley – Manager, Access to Justice
Mike Eidelbes, Electronic Publications Coordinator.
Kathleen Fox – Director of Programs and Services
JoAnn Hathaway, Practice Management Resource Center
James Horsch – Director of Finance and Administration
Victoria Kremiski – Deputy Regulation Counsel
Kristine Kowalski, Administrative Assistant – General Counsel and Governmental Relations
Elizabeth Lyon – Public Policy Program Analyst
Susan McMann – Sections and Committees Coordinator
Dawn Miller – Director of Professional Standards
Sarah Nussbaumer, Graphic Artist
Jerome Reide – Director of Justice Initiatives
Chad Sluss – Manager, Member Services
Anne Smith, Administrative Assistant
Sally VanDenBerg, Practice Management Resource Center
Janet Welch – General Counsel

Present for such portions of the meeting as pertained to specific agenda items were Joseph Firestone, Chair, Electronic Filing Task Force Committee.

CONSENT AGENDA

A motion was made, seconded and carried to approve the Consent Agenda.

Minutes

The Board approved the minutes of the July 29, 2005 Board meeting.

The Board accepted the minutes of the following Executive Committee meetings:

- July 11, 2005
- August 23, 2005
- August 29, 2005
- September 6, 2005

President's Report – Nancy J. Diehl, President

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

Executive Director's Report – John T. Berry, Executive Director

The Board received the written Executive Director's recent activities report and the UPL Litigation Status Report.

Finance – Edward H. Pappas, Chairperson

The Board received the year to date financial results through July 31, 2005 and the year-end forecast.

Justice Initiatives – Richard D. McLellan, Chairperson

The Board received a written report on the activities of the Standing Committee on Justice Initiatives (SCJI) and related entities.

Professional Standards – Ronald D. Keefe, Chairperson

The Board approved the following Client Protection Fund claims:

	Claim No.	<i>Amt. Recommended</i>
1.	CPF 1841	\$ 585.08
2.	CPF 1851	\$ 2,665.40
3.	CPF 1856	\$ 571.95
4.	CPF 1864	\$ 3,233.52
5.	CPF 1870	\$ 3,152.45
6.	CPF 1888	\$ 5,921.96
7.	CPF 1912	\$ 9,302.78
8.	CPF 1920	\$ 7,350.07
9.	CPF 1921	\$ 9,769.32
10.	CPF 1935	\$ 682.48
11.	CPF 1937	\$ 10,211.74
12.	CPF 1942	\$ 25,000.00
13.	CPF 1946	\$ 14,524.71
14.	CPF 1949	\$ 117.02
15.	CPF 2064	\$ 3,015.46
16.	CPF 2069	\$ 3,896.06
	Total	\$100,000.00

COMMITTEE REPORT

Joseph Firestone, Chair of the Electronic Filing Task Force Committee, provided a verbal update on the committee's activities, including the results of the e-filing survey of members and the proposal on e-mail communication between attorneys under consideration by the Representative Assembly.

LEADERSHIP REPORTS

President's Report – Nancy J. Diehl

Annual Meeting

President Diehl encouraged the Board to attend Section meetings and the Representative Assembly meeting during the Annual Meeting.

Conflict of Interest – Richard McLellan gave a brief overview of the Conflict of Interest Policy and asked the Board to consider a number of issues and proposals for adoption. A motion was made and seconded. Motion carried.

Welcome New Board Members

President Diehl welcomed the new Board members.

Executive Director's Report – John T. Berry

E-commerce

Mr. Berry reported on the E-commerce project and all the hard work that the cross functional team has put into this project. Mr. Berry reported that the Board would be able to test the project and would like feed back from the Board on any suggestions or comments they may have.

Staff Introductions

The following new staff members were introduced: Kristine Kowalski, Administrative Assistant – General Counsel and Governmental Relations; Sally VanDenBerg and JoAnn Hathaway both with the Practice Management Resource Center; Sarah Nussbaumer, Graphic Artist; Mike Eidelbes, Electronic Publications Coordinator.

Strategic Plan Implementation Plan & Budget

Mr. Berry asked Edward Pappas, Chair, Finance Committee to report on a two amendments to the budget, pertaining to the Insurance Risk Management and the Investment Consultant. Mr. Pappas called on Charles Toy to report on the recommendation from the Insurance Risk Management Subcommittee. Mr. Toy reported that the recommendations are to increase the D&O coverage, increase the umbrella policy coverage, and to increase the coverage's on the building and contents on the general liability and property policy.

Mr. Pappas reported on the Investment Consultant and the valuable service that they provided; however the recommendation is to discontinue the use of the Investment Consultant.

Mr. Berry reviewed a few of the highlights of the 2005 Strategic Plan Implementation Plans and proceed into the 2005-06 Budget. Mr. Berry reported Budget changes since the July Preliminary Budget and also on four new positions, Research Coordinator; Outreach Director; Administrative Assistant for the Executive Office and another position in the Lawyers and Judges Assistance Judges Assistants Program. Mr. Berry and Mr. Horsch answered questions from the Board. After discussion a motion was made, seconded and carried to approve the budget as recommended.

Grand Hotel

Mr. Berry gave an update on the Grand Hotel, in reviewing discussions and recent information the same issues have occurred since the 80's. Mr. Berry has received input from Board members and outside members and it varies from hiring activities to different views, expense and travel. Local Bar Executive Directors have expressed concern to the cost and the travel. After discussion the Board recommended that the staff contact the members of the Bar Leadership Forum and the Upper Michigan Legal Institute to provide input. Options discussed for the Bar Leadership were moving it to be in conjunction with the Annual Meeting or a solo conference at another location. A report will be provided back to the Board. It was also recommended that the Executive Committee discuss whether or not the Board should meet at the Grand Hotel and report back to the Board.

Representative Assembly Chairperson's Report – Elizabeth A. Jamieson

Proposals before Assembly

Ms. Jamieson's reported that the agenda for the September 22, 2005 meeting was going to include a report on Multijurisdictional Practice, Practice Management Resource Center, Confidentiality Rule, informational report on tax on legal service, and E-filing proposal.

Bar Leadership Forum Survey

In the past two years the Assembly has done a survey during the Bar Leadership Forum asking about their knowledge and interaction with the Assembly, and overall there are more people familiar with the Assembly along with more people that would like to participate on the Assembly (39% increase).

MRPC & MSILS Update

An Administrative Hearing is scheduled for September 29, 2005 before the Supreme Court and the Assembly has time allotted to speak at the Hearing.

COMMISSIONER COMMITTEES

Justice Initiatives – Richard D. McLellan, Chairperson

Mr. McLellan reported that the Justice Initiatives Report on the Standing Committee of the Justice Initiatives is in the agenda materials.

Professional Standards – Ronald D. Keefe, Chairperson

Mr. Keefe reported that the Professional Standards and the Programs & Services met jointly for an update on the Practice Management Resource Center. The Law Office Management Section has offered to assist with the Resource Center.

Programs and Services – Kimberly M. Cahill, Chairperson

Commissioner Cahill asked Kathleen Fox to report on the Annual Meeting and the different events taking place through out the conference along with the hotel accommodations at the Marriott in East Lansing.

Public Policy, Image and Identity – Thomas W. Cranmer, Chairperson

Michigan Court Rules

A motion was made, seconded and carried to approve the following Board actions:

ADM File No. 2004-42 - Proposed Amendment of Rules 8.103, 8.107 and 8.110 of the Michigan Court Rules – State Court Administrator, Statement by Trial Judge as to Matters Undecided, Chief Judge Rule. (See *Michigan Bar Journal* August 2005, p 64-65).

Oppose the proposed amendment due to its proposed methodology. The State Bar acknowledges the need for accountability and efficiency in the judicial system.

ADM File No. 2005-02 - Proposed Administrative Order regarding Privacy Policy and Access to Court Records. (See *Michigan Bar Journal* September 2005, p 70).

Support. Authorization was granted to the Judicial Conference to advocate its position.

Legislation

HB 4542 (Robertson) – Family law, child support; Crimes, penalties. Family law; child support; graduated penalties for unpaid support; enact. Amends sec. 165 of 1931 PA 328 (MCL 750.165).

Defer to State Bar Sections

HB 4588 (Van Regenmorter) – Crime victims, rights; Crime victims, notices; Crime victims, restitution; Corrections, parole. Crime victims; rights; comprehensive changes to crime victim's rights act; enact. Amends secs. 2, 6, 13a, 16, 16a, 18, 18a, 19, 20, 21, 31, 44, 44a, 46, 47, 61, 65, 76, 76a, 78 & 81 of 1985 PA 87 (MCL 780.752 et seq.) & adds sec. 19a.

Support in Principle

HB 4629 (Sak) – Criminal procedure, sentencing. Criminal procedure; sentencing; cost of prosecution; require payment in certain circumstances. Amends secs. 1f & 3, ch. IX, sec. 3, ch. XI, sec. 8, ch. XII & sec. 22, ch. XIV of 1927 PA 175 (MCL 769.1f et seq.).

Oppose in Principle

HB 4630 (Law) – Criminal procedure, evidence; Crimes, drunk driving. Criminal procedure; evidence; preliminary breath tests; allow as admissible evidence in certain criminal prosecutions. Amends sec. 625a of 1949 PA 300 (MCL 257.625a).

Support in Principle

HB 4796 (McConico) – Criminal procedure, preliminary examination; Criminal procedure, pretrial procedure. Criminal procedure; preliminary examination; right to preliminary examination for certain crimes; eliminate. Amends secs. 1 & 4, ch. VI of 1927 PA 175 (MCL 766.1 & 766.4).

Given the diversity of views on this issue, the State Bar takes no position but supports the involvement of both sections and committees to weigh in on the legislation.

HB 4797 (Elsenheimer) – Criminal procedure, preliminary examination; Criminal procedure, pretrial procedure. Criminal procedure; preliminary examination; right to preliminary examination for certain crimes; eliminate. Amends sec. 1a, ch. IV of 1927 PA 175 (MCL 764.1a). TIE BAR WITH HB 4796, HB 4799, HB 4800

Given the diversity of views on this issue, the State Bar takes no position but supports the involvement of both sections and committees to weigh in on the legislation.

HB 4799 (Van Regenmorter) – Criminal procedure, preliminary examination ; Criminal procedure, pretrial procedure. Criminal procedure; preliminary examination; right to preliminary examination for certain crimes; eliminate. Amends secs. 40 & 42, ch. VII of 1927 PA 175 (MCL 767.40 & 767.42). TIE BAR WITH: HB 4796, HB 4797, HB 4800

Given the diversity of views on this issue, the State Bar takes no position but supports the involvement of both sections and committees to weigh in on the legislation.

HB 4800 (Van Regenmorter) – Criminal procedure, preliminary examination; Courts, jurisdiction; Courts, district court. Criminal procedure; preliminary examination; right to preliminary examination for certain crimes; eliminate. Amends sec. 8311 of 1961 PA 236 (MCL 600.8311). TIE BAR WITH: HB 4796, HB 4797, HB 4799.

Given the diversity of views on this issue, the State Bar takes no position but supports the involvement of both sections and committees to weigh in on the legislation.

HB 4831 (Hummel) – Appropriations, other. Appropriations; other; omnibus budget appropriations bill; provide for fiscal years 2005 and 2006. Creates appropriation act.

Oppose in principle the funding levels for SADO.

HB 4851 (Schuitmaker) – Juveniles, criminal procedure. Juveniles; criminal procedure; age under which court has jurisdiction; revise. Amends sec. 2, ch XIII of 1939 PA 288 (MCL 712A.2).

Support in Principle

HB 5024 (Taub) – Civil procedure, costs and fees; Occupations, attorneys. Civil procedure; costs and fees; attorney contingency fees based on a sliding scale; provide for. Amends sec. 919 of 1961 PA 236 (MCL 600.919).

Active Opposition

SB 33 (Switalski) – Civil procedure, costs and fees; Courts, reporters or recorders; Courts, circuit court. Civil procedure; costs and fees; transcript fee; increase. Amends sec. 2543 of 1961 PA 236 (MCL 600.2543).

Support in Principle provided that the bill is amended or tie-barred to legislation that is enacted to recognize and provide relief for transcript fee costs for indigent parties and parties represented by pro bono counsel.

SB 113 (Hammerstrom) – Courts, juries. Courts; juries; system for requiring jury service and excusing prospective jurors; revise and provide for a lengthy trial fund. Amends secs. 1307a, 1314, 1320, 1333, 1334, 1335, 1337, 1343, 1346 & 1348 of 1961 PA 236 (MCL 600.1307a et seq.) & adds sec. 1344a.

Oppose in Principle

SB 120 (Johnson) – Criminal procedure, evidence; Family law, domestic violence; Crimes, domestic violence. Criminal procedure; evidence; prior acts of domestic violence; allow to be admissible as evidence. Amends 1927 PA 175 (MCL 760.1 - 777.69) by adding sec. 27a to ch. VIII.

Oppose in Principle based on a long-standing State Bar position that such changes should be addressed in court rule.

SB 263 (Hammerstrom) – Crime victims, statements; Criminal procedure, evidence; Crimes, domestic violence. Crime victims; statements; hearsay rule; exempt certain statements of domestic violence victims. Amends 1927 PA 175 (MCL 760.1 - 777.69) by adding secs. 27a & 27b to ch. VIII.

Oppose in Principle based on a long-standing State Bar position that such changes should be addressed in court rule.

SB 275 (Prusi) – Appropriations, judiciary. Appropriations; judiciary; judiciary budget; provide for fiscal year 2005-2006. Creates appropriation act.

Oppose in principle the funding levels for SADO.

SB 289 (Goschka) – Criminal procedure, statute of limitations; Crimes, crimes against minors; Crimes, criminal sexual conduct. Criminal procedure; statute of limitations; statute of limitations for certain criminal sexual conduct offenses; eliminate. Amends sec. 24, ch. VII of 1927 PA 175 (MCL 767.24).

Defer to Sections and Committees. The Criminal Jurisprudence and Practice Committee opposes the bill.

SB 379 (Van Woerkom) – Children, services; Family law, other; Courts, circuit court. Children; services; court-appointed special advocates; provide for. Creates new act.

Oppose in Principle

SB 541 (Sanborn) – Torts, civil procedure; Insurance, other; Consumer protection, other; Civil procedure, civil actions. Torts; civil procedure; revised structured settlement protection act; enact. Creates new act & repeals 2000 PA 330 (MCL 691.1191 - 691.1197).

No Position. Authorization was granted to the Civil Procedure and Courts Committee to advocate its position. The Committee proposes revised language to the bill.

SB 542 (Cropsey) – Criminal procedure, preliminary examination; Criminal procedure, pretrial procedure. Criminal procedure; preliminary examination; right to preliminary examination for certain crimes; eliminate. Amends secs. 40 & 42, ch. VII of 1927 PA 175 (MCL 767.40 & 767.42). TIE BAR WITH: SB 0543, SB 0544, SB 0545

Given the diversity of views on this issue, the State Bar takes no position but supports the involvement of both sections and committees to weigh in on the legislation.

SB 543 (Patterson) – Criminal procedure, preliminary examination; Criminal procedure, pretrial procedure. Criminal procedure; preliminary examination; right to preliminary examination for certain crimes; eliminate. Amends sec. 1a, ch. IV of 1927 PA 175 (MCL 764.1a). TIE BAR WITH: SB 0542, SB 0544, SB 0545

Given the diversity of views on this issue, the State Bar takes no position but supports the involvement of both sections and committees to weigh in on the legislation.

SB 544 (Cropsey) – Criminal procedure, preliminary examination; Criminal procedure, pretrial procedure. Criminal procedure; preliminary examination; right to preliminary examination for certain crimes; eliminate. Amends secs. 1 & 4, ch. VI of 1927 PA 175 (MCL 766.1 & 766.4).

Given the diversity of views on this issue, the State Bar takes no position but supports the involvement of both sections and committees to weigh in on the legislation.

SB 545 (Patterson) – Criminal procedure, preliminary examination; Courts, jurisdiction; Courts, district court. Criminal procedure; preliminary examination; right to preliminary examination for certain crimes; eliminate. Amends sec. 8311 of 1961 PA 236 (MCL 600.8311). TIE BAR WITH: SB 0542, SB 0543, SB 0544.

Given the diversity of views on this issue, the State Bar takes no position but supports the involvement of both sections and committees to weigh in on the legislation.

OTHER REPORTS

Young Lawyers Section Report – Angelique Strong Marks, Chairperson
Commissioner Strong Marks reported on two programs that the Young Lawyers sponsored, Stress Management Seminar and the Save Kids of Incarcerated Parents. Both programs were very well received. Commissioner Strong Marks reported on the ABA Annual Meeting, which took place in Chicago, August 4-9, 2005. Under the ABA Young Lawyers Division there are five categories in which you receive marks, Michigan's Young Lawyers received marks of either a one or a two in all five categories.

Jeff Kirkey, Chair-Elect reported that five members of the Young Lawyers Section put together a fund raiser through out the state in order to assist with Hurricane Katrina victims. On September 29, 2005 at the Hot Rock Martini Bar & Restaurant in Birmingham or The Bob in Grand Rapids, and on October 6, 2005 at the 621 Club. There is no charge for the event, donations will be taken at the door with all proceeds to go to victims of Hurricane Katrina.

ABA Report – W. Anthony Jenkins, State Delegate
Commissioner Jenkins reported on the ABA Annual Meeting, which took place in Chicago August 4-9, 2005. Governance was a key issue of discussion at the Annual Meeting. The ABA Mid-Year Meeting will be held in Chicago instead of New Orleans one week later than scheduled.

SPECIAL PRESENTATION

Resolutions Honoring Retiring Board Members & Others

Randolph P. Piper – A resolution was prepared, read, and presented by Kurt E. Schnelz. A copy is attached to these minutes as Addendum I.

Andrew D. Portinga – A resolution was prepared, read, and presented by Angelique Strong Marks. A copy is attached to these minutes as Addendum II.

Kim Warren Eddie – A resolution was prepared, read, and presented by Charles R. Toy. A copy is attached to these minutes as Addendum III.

Stephen J. Murphy, III – A resolution was prepared, read, and presented by Lambro Niforos. A copy is attached to these minutes as Addendum VI.

Hon. Cynthia D. Stephens – A resolution was prepared, read, and presented by Richard D. McLellan. A copy is attached to these minutes as Addendum V.

Elizabeth A. Jamieson – A resolution was prepared, read, and presented by Lori A. Buiteweg. A copy is attached to these minutes as Addendum VI.

Richard C. Lowe - A resolution was prepared, read and presented by James C. Horsch. A copy is attached to these minutes as Addendum VII.

A motion was made and seconded to adopt the resolutions as presented.

Recognition of President Nancy J. Diehl

A resolution was prepared, read and presented by Thomas W. Cranmer. A copy is attached to these minutes as Addendum VIII.

A motion was made and seconded to adopt the resolution as presented.

FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

Comments or questions from Commissioners

President Diehl asked for comments or questions. Commissioner McLellan wanted to alert the Board that attorneys in the State of Michigan were being laid off so that companies could hire twice as many attorneys in India to assist with their legal work.

Comments or questions from the public

President Diehl asked for comments or questions from the public but there were none.

Old/New Business

There was none.

The meeting was adjourned at 5:20 p.m.