

President Einhorn called the meeting to order at 9:45 a.m., April 25, 2014 at the Michael Franck Building in Lansing, MI.

Commissioners present:

Kathleen M. Allen
Danielle Mason Anderson
Dennis M. Barnes
David R. Brake
Danielle M. Brown
Robert J. Buchanan
Timothy J. Burns
Lori A. Buiteweg, Vice President
Margaret A. Costello
Richard L. Cunningham
Brian D. Einhorn, President
Stephen J. Gobbo
Jennifer M. Grieco
Edward L. Haroutunian
Felicia O. Johnson

C. Thomas Ludden
E. Thomas McCarthy, Jr.
Maureen M. McGinnis
Lawrence P. Nolan, Secretary
Jules B. Olsman
Colleen A. Pero
Daniel D. Quick
Victoria A. Radke
Donald G. Rockwell, Treasurer
Thomas C. Rombach, President-Elect
Hope V. Shovein
Richard J. Siriani
Gregory L. Ulrich
Vanessa Peterson Williams

Commissioners absent and excused:

Commissioners D. Randall Gilmer, Andrea Irons and Hon. Michael J. Riordan were absent and excused.

State Bar Staff present:

Janet Welch, Executive Director
Marge Bossenbery, Executive Coordinator
Nancy Brown, Director, Member Services and Communication
Gregory Conyers, Director, Diversity
Candace Crowley, Director, External Development
Peter Cunningham, Director, Governmental Relations
Cliff Flood, General Counsel
Danon Goodrum Garland, Investigative Counsel
James Horsch, Director, Finance and Administration Division
Nkrumah Johnson-Wynn, Assistant General Counsel
Robert Mathis, Pro Bono Attorney
Samantha Meinke, Communications Specialist
Anne Smith, Administrative Assistant
Jeanette Socia, Human Resources Manager
Kari Thrush, Manager, Membership Services and Events
Anne Vrooman, Director, Research and Development

Guests

Lynn Chard, Executive Director, ICLE
Susan Licata Haroutunian

Consent Agenda

The Board received the minutes from the January 17, 2014, February 6, 2014 and the March 31, 2014 Board meetings, and the December 17, 2013, January 27, 2014, February 13, 2014 and March 5, 2014 Executive Committee conference calls.

The Board received the recent activities of the President.

The Board received the recent activities of the Executive Director.

The Board received the FY 2014 Financial Reports through February 2014.

The Board received the 2013 Report of the State Bar of Michigan Retirement Plans.

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

COMMISSIONER COMMITTEES

Finance, Donald G. Rockwell, Chairperson **FY2014 Financial and Investment Update**

Mr. Rockwell presented the Board with a FY 2014 Financial and Investment update.

Mr. Rockwell provided the Board with an update of the members who were suspended due to non-payment of dues. Mr. Horsch indicated that there is a list on the website that lists the current members who have been suspended.

Mr. Rockwell informed the Board that the Finance Committee will meet with the SBM staff to review the proposed FY 2015 budget sometime in early July.

Audit Committee, Donald G. Rockwell, Chairperson

There was no report.

Professional Standards, Lawrence P. Nolan, Chairperson **ABA House of Delegates appointment**

Mr. Nolan informed the Board that the Professional Standards committee recommends to the Board that both E. Christopher Johnson and W. Anthony Jenkins be re-appointed to the ABA House of Delegates. A motion was offered and supported to support their re-appointment. The motion carried.

Mr. Nolan asked Ms. Goodrum Garland to lead a discussion about UPL claim #2935. This claim was tabled at the January meeting because there was some interest in increasing the settlement amount. A motion was offered and seconded to pay the claim in the amount of \$75K. The motion carried.

Programs and Services, Lori A. Buiteweg, Chairperson

Ms. Buiteweg informed the Board that the SBM Annual meeting will be held September 17-20 at the De Vos Place and Amway Grand Hotel in Grand Rapids, the BLF/UMLI will be held June 5-7, and the Past President's dinner honoring Bruce Courtade will be held May 13 at the JW Hotel in Grand Rapids.

SBM Mobile Membership App

Ms. Buiteweg discussed the SBM mobile membership app and encouraged the Board to download the app.

50 Year Honoree Resolution

The Board received the Resolution for the 2014 50-Year Honorees. A motion was offered and supported to approve the resolution. The motion carried.

Sure Payroll

The Board received information about a new SBM member benefit called Sure Payroll. A motion was offered and supported to approve this member benefit. The motion carried.

WordRake

The Board received information about a new SBM member benefit called WordRake. A motion was offered and supported to approve this member benefit. The motion carried.

Public Policy, Image and Identity, Thomas C. Rombach, Chairperson

The Board members received the Justice Initiatives Report.

Court Proposals

ADM File No. 2010-32 Proposed Amendment of Rule 3.210 of the Michigan Court Rules

These proposed amendments of MCR 3.210 would clarify default and default judgment procedures to be used in domestic relations cases. The proposed amendments also would allow parties to reach agreement on issues related to property division, custody, parenting time, and support, and enter a consent judgment on those issues if the court approves. These proposed amendments were developed by a workgroup of family law practitioners and judges (assisted by SCAO staff) who were instrumental in creation of an earlier version of this proposal that had been published for comment. Following reconsideration of some provisions of the earlier version, members of the group reconvened and formulated a revised proposal, which is the subject of this publication order.

A motion was offered and supported to support the proposed amendments with further amendments of (B)(1) and (E)(2). The motion carried.

ADM File No. 2012-03 Amendment of Rule 1.111 of the Michigan Court Rules

The amendments of MCR 1.111 make technical revisions and insert an interim review process for cases in which a court denies a request for an interpreter or orders reimbursement of interpretation costs. These revisions are adopted with immediate effect, but pending public comment and a future public hearing.

A motion was offered and supported to support this proposal. The motion carried.

ADM File No. 2013-02 Proposed Amendments of Rules 3.800, 3.801, 3.802, 3.804, 3.807, 5.109, 5.401, 5.402, and 5.404 of the Michigan Court Rules

This proposal would incorporate provisions of the Michigan Indian Family Preservation Act and the Indian Child Welfare Act. The proposal is designed to make the rules reflect a more integrated approach to addressing issues specific to Indian children.

The committee recommends that the SBM take no action on these proposed amendments while authorizing the committees to submit their comments to the Executive Committee for review. A motion was offered and supported to support the recommendation of the committee. The motion carried.

ADM File No. 2013-41 Amendments of Administrative Order No. 1998-5

The amendments of Administrative Order No. 1998-5 modify the way county-funded courts pursue disputes over court funding. These modifications are adopted with immediate effect, but pending public comment and a future public hearing, in light of the enactment of 2013 PA 172.

A motion was offered and supported to support this amendment, noting the Bar's opposition to the underlying legislation, and authorizing the Civil Procedure & Courts Committee to submit its comments.

Legislation

HB 4913 (McMillin) Civil procedure; civil actions; strategic lawsuits against public participation; limit. Amends 1961 PA 236 (MCL 600.101 - 600.9947) by adding sec. 2978.

A motion was offered and supported to oppose this legislation. The motion carried

HB 5238 (Kowall, E.) Criminal procedure; expunction; set-aside of certain criminal records for victims of human trafficking; provide for. Amends secs. 1, 2 & 4 of 1965 PA 213 (MCL 780.621 et seq.).

A motion was offered and supported to support this legislation. The motion carried by roll call vote.

Commissioners voting in favor of the position: Allen, Anderson, Barnes, Brake, Brown, Buchanan, Buiteweg, Burns, Costello, Einhorn, Gobbo, Grieco, Haroutunian, Johnson, Ludden, McCarthy, McGinnis, Nolan, Olsman, Pero, Quick, Radke, Rockwell, Rombach, Shovein, Siriani, Ulrich, Williams. Commissioner abstaining from voting: Cunningham.)

HB 5246 (Rogers) Criminal procedure; warrants; use of electronic video equipment for issuance of warrants; allow for law enforcement officials. Amends sec. 1, ch. IV of 1927 PA 175 (MCL 764.1).

The committee recommended no position on this legislation.

Video-Recorded Statements

HB 5270 (McMillin) Law enforcement; investigations; electronic video recording of child interrogations; require. Amends 1975 PA 238 (MCL 722.621 - 722.638) by adding sec.

HB 5271 (Kosowski) Criminal procedure; evidence; consideration of videorecorded statements in certain proceedings; allow. Amends sec. 2163a of 1961 PA 236 (MCL 600.2163a).

HB 5272 (Hooker) Children; protection; videorecorded statements; allow to be used in child protective services hearings, increase fines for improper release of, and require to retain for certain period of time. Amends sec. 17b, ch. XA of 1939 PA 288 (MCL 712A.17b).

A motion was offered and supported to support this package of legislation. The motion carried.

SB 0714 (Schuitmaker) Civil procedure; alternate dispute resolution; uniform collaborative law act; enact.

Creates new act.

A motion was offered and supported to support this legislation. The motion carried.

President's Report, Brian D. Einhorn, President

Mr. Einhorn informed the Board that he planned to address the Task Force on the Role of the State Bar of Michigan at its public hearing on May 2, 2014. He informed the Board that the last day to register to speak at the hearing was April 28, 2014. A discussion took place as to the necessity of additional board members addressing the Task Force. Commissioners Allen, Haroutunian and Ulrich indicated that they had already registered to give remarks. Commissioner Buiteweg plans to attend the hearing, but does not intend to give remarks.

Proposed Amendments to Rules of the SBM

Mr. Einhorn discussed the proposed amendments to the Rules of the State Bar that were submitted to the Board by the work group appointed by Mr. Einhorn.

A motion was offered and supported to approve the proposed rule changes and to forward the proposed changes to the Task Force on the Role of the State Bar. The motion carried.

2014 Board Officer Election Procedure, Matrix and Timeline

Mr. Einhorn reported that at the July board meeting, the Board will elect the 2014-15 Treasurer of the SBM. He informed the Board that a description of the procedure that needs to be followed for a current Board member to submit his or her name for consideration for that position is included in the Board book.

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

Task Force on the Role of the State Bar

Ms. Welch discussed with the Board the research prompted by the Task Force's charge, some of the ongoing challenges that the State Bar has faced with member understanding of the nature, limitations, and benefits of the mandatory bar.

FY 2015 Budget Process, Roles and Calendar

At Ms. Welch's direction, Mr. Horsch outlined the FY 2015 budget.

Michigan Supreme Court Update

Ms. Welch informed the Board about two initiatives that are underway in the State Court Administrative Office that are of significance and consequence. One is the Judicial Performance Committee that is generating the standards for what data are going to be released as part of statewide court “dashboards” measuring judicial performance. The other is a statewide e-filing initiative. The State Bar’s consistent message is that lawyers and the public ought not to face different costs and procedures as they e-file around the state.

ABA Day

At Ms. Welch’s direction, Mr. Cunningham described the State Bar delegation’s experience lobbying in Washington, DC on ABA Day.

State Bar Elections

Ms. Welch informed the Board that the State Bar election cycle is beginning and that there have not been any changes to the procedures or the vendor used for electronic voting.

Personnel Changes

Ms. Welch reported to the Board that Dawn Evans has accepted a position as Disciplinary Counsel and Director of Regulatory Services with the State Bar of Oregon.

Ms. Welch introduced the State Bar’s new Human Resources Manager, Jeanette Socia.

Ms. Welch informed the Board that Nkrumah Wynn Johnson will be working with the General Counsel as assistant counsel, in addition to her regulatory counsel duties.

ZeekBeek

Ms. Welch asked Ms. Vrooman to provide the Board with an overview of a new program that the SBM will be offering its members called ZeekBeek.

Ms. Vrooman informed the Board that the Economics of Law Practice survey will be launched on May 1. It will be open for 3 weeks to a month. There are two surveys, one for attorneys in private practice and one for the remainder of the members.

Ms. Vrooman informed the Board about a request that was received from an attorney in Utah who over the past five or six years has been studying violence in the legal profession. He is asking to conduct a survey in Michigan. Ms. Vrooman will research this request and get back with the Board.

Representative Assembly (RA) Report, Kathleen M. Allen, Chairperson

April 26 RA Meeting

Ms. Allen reported that the RA meeting takes place at Lansing Community College beginning at 9:00 a.m. tomorrow and discussed with the Board the agenda items that the Assembly will address.

American Bar Association (ABA) Report

There was no report.

Young Lawyers Section Report (YLS), Hope V. Shovein, Chairperson

Ms. Shovein provided the Board with an update on the activities of the Young Lawyers Section and reminded the Board about the annual bowling challenge that is taking place today.

Comments from Commissioners

Ms. Buiteweg asked that Board members who are acting as liaison on a public policy issue call Mr. Cunningham if they are not familiar with the issue, to get some intelligence on it so that the committee is able to weigh in on an issue if it is Keller-permissible.

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Ms. Buiteweg asked for a recommendation on an expert in 4th amendment search and seizure that she may consult with in developing the curriculum for a Constitution Day event.

Mr. Nolan distributed a Michigan Supreme Court Historical Society brochure to all Board members.

Adjournment

The meeting was adjourned at 1:00 p.m.