



Board of Commissioners

Agenda and Materials

April 12, 2019

**STATE BAR OF MICHIGAN
BOARD OF COMMISSIONERS
FRIDAY, APRIL 12, 2019
MICHAEL FRANCK BUILDING
LANSING, MI
9:30 A.M.
AGENDA**

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

Finance Committee Meeting (8:30 a.m.)	Room 1
Professional Standards Committee Meeting (8:30 a.m.)	Hudson Room
Communications and Member Services Meeting (9:00 a.m.)	Room 3
Public Policy Meeting (8:00 a.m.)	Room 2

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

CONSENT AGENDA

II. **Minutes**

- A. January 18, 2019 Board of Commissioners *
- B. March 8, 2019 Board of Commissioners*
- C. January 8, 2019 Executive Committee*
- D. February 12, 2019 Executive Committee*

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

- A. FY 2019 Financial Reports through February 2019*
- B. 2018 Report of the State Bar of Michigan Retirement Plans*

VI. **Professional Standards**Dana M. Warncz, Chairperson

- A. Client Protection Fund Claims*

VII. **Communications and Member Services** Robert J. Buchanan, Chairperson

- A. 50-Year Honoree Resolution*

VIII. **Section Dues Amendment**.....Darin Day, Director of Outreach

- A. Alternative Dispute Resolution Section*

LEADERSHIP REPORTS

IX. **President’s Report**.....Jennifer M. Grieco, President

- A. State Bar Leadership Implicit Bias Training
- B. Board Officer Election Timeline, Procedure, and Matrix*

- X. **Executive Director’s Report** Janet K. Welch, Executive Director
 - A. *Fleck v Welch* Update
 - B. FY 2020 Budget Process, Roles, and Calendar*
 - C. SBM Goals and Priorities for FY 2019
 - D. Introduction of New SBM Staff
- XI. **Representative Assembly (RA) Report**..... Richard L. Cunningham, Chairperson
 - A. April 13, 2019 RA Meeting Calendar*
- XII. **Young Lawyers Section Report** Kara Hart-Negrich, Chairperson

SPECIAL REPORT

- XIII. **State Bar Operation, Structure, and Governance**Mark Engle, Consultant, AMC

COMMISSIONER COMMITTEES

- XIV. **Finance**..... James W. Heath, Chairperson
 - A. FY 2018 Financial and Investment Update
 - B. Long Range Financial Planning
- XV. **Professional Standards**Dana M. Warnez, Chairperson
 - A. ABA House of Delegates Appointment**
 - B. Michigan Appellate Defender Commission Recommendation**
- XVI. **Communications and Member Services** Robert J. Buchanan Chairperson
 - A. 2019 John W. Cumiskey Award*
 - B. 2019 SBM Awards Committee Recommendations*
- XVII. **Public Policy**..... Dennis M. Barnes, Chairperson
 - A. Court Rules**
 - B. Legislation**

OTHER REPORTS

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

FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

- XIX. **Comments or questions from Commissioners**
- XX. **Comments or questions from the public**
- XXI. **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 January 18, 2019 in the Boardroom of the Michael Franck Building in Lansing, MI.

Commissioners present:

Danielle Mason Anderson
David C. Anderson
Dennis M. Barnes, President-Elect
Robert J. Buchanan, Vice President
Aaron V. Burrell
B.D. "Chris" Christenson
Richard L. Cunningham
Syeda F. Davidson
Josephine A. DeLorenzo
Hon. Shauna L. Dunning
Andrew F. Fink III
Jennifer M. Grieco, President
Edward L. Haroutunian

James W. Heath, Treasurer
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
Ryan Zemke

Commissioners absent and excused:

Joseph J. Baumann
Hon. Clinton Canady III
Lisa J. Hamameh

Kara R. Hart-Negrich
Michael S. Hohausner
Travis W. Weber

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
Danon Goodrum-Garland, Director, Professional Services Division
Kathryn Hennessey, Public Policy Counsel
James Horsch, Director, Finance and Administration Division
Nkrumah Johnson-Wynn, 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
Tish Vincent, Program Administrator, Lawyers and Judges Assistance Program

Guests

David Watson, Executive Director, ICLE

Consent Agenda

The Board received the minutes from the November 16 and December 4, 2018 Board meetings.
The Board received the minutes from the November 7 and December 11, 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 2019 Financial Reports through November 2018.

The Board received some Model Jury Instructions.

Ms. Grieco asked the Board if there were any items that needed to be removed from the consent agenda. There were none.

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

AUDIT REPORT

Audit Committee Report, James W. Heath, Chairperson

The Board received a copy of the FY 2018 State Bar of Michigan Audited Financial Report.

Mr. Heath reported that the members of the audit committee met with the audit firm on December 19, 2018 to review and approve the audit. He introduced Mr. Roger Hitchcock, Audit Partner, and Jamie Rabe, Audit Manager, from the firm of Andrews Hooper Pavlik PLC, who reviewed the audit letter, the annual financial report, and responded to questions from the Board. Mr. Hitchcock reported that there are new reporting standards in the report due to the implementation of GASB 75, which is financial reporting for reflecting post-employment benefits other than pensions (OPEB). The auditors provided a clean "unmodified" opinion with no audit recommendations, and thanked the staff for their assistance and cooperation during the audit.

LEADERSHIP REPORTS

President's Report, Jennifer M. Grieco, President

Ad Hoc Work Group on Professionalism

Ms. Grieco reported on the Ad Hoc Work Group on Professionalism that will be chaired by Edward Pappas, former president of the State Bar. She stated that there were about 20 individuals who were appointed to the work group. The jurisdiction of the group is to implement the recommendations that came out of the SBM October 2018 Professionalism & Civility Summit with priority placed on encouraging bar associations, lawyer organizations, and judicial groups to conduct similar summits; consider the adoption of Michigan-specific civility guidelines for judges and lawyers; and review the Lawyer's Oath more frequently and develop a SBM clearing-house and professionalism tool kit.

Ms. Grieco reported that a sub-committee of the task force is already working on developing civility guidelines for judges and lawyers and those guidelines could be ready to be offered for the Representative Assembly agenda in April. In addition, she said that a civility clearinghouse and toolkit are already on the State Bar website and encouraged the Board to take a look at the resources listed.

Task Force on State Bar Operations, Structure, and Governance

Ms. Grieco reported on the Task Force on State Bar Operations, Structure, and Governance. She stated that the State Bar has retained a consultant, Mark Engle, from Association Management Consultants (AMC) and that the task force members have been appointed. She said that the task force will have its first meeting in March and that the consultant has begun to review the governance documents of the State Bar, minutes from both the Board and the Representative Assembly (RA), along with other pertinent documents. Ms. Grieco reported that the consultant plans to provide an interactive presentation to both the Board and the RA at their April meetings with a goal of presenting their final report to the RA in April 2020.

Executive Director's Report, Janet K. Welch, Executive Director
Interim Administrator/Receivership Program

Ms. Welch introduced Alecia Ruswinckel to introduce the proposed Interim Administrator/Receivership Program. Ms. Ruswinckel explained that the State Bar recognized the need for succession planning for attorneys a few years ago. As a result of recommendations from the 21st Century Practice Task Force, the SBM created a Receivership Workgroup that was tasked with recommending a comprehensive program that would protect the public and clients in the event that an attorney becomes unable to practice law with no succession plan in place. Ms. Ruswinckel explained the details of the Interim Administrator Program to the Board and responded to their questions, including the implementation timeline, training, compensation, financial responsibilities, potential policy issues, and in some cases, probate court oversight.

Ms. Welch stated that the RA is aware of this issue, having declined to approve a much less developed response to the problem several years ago. She stated that she and Mr. Gershel, grievance administrator of the Attorney Grievance Commission (AGC), have had conversations and that the AGC is ready for the SBM to take over this expanded program. Mr. Gershel and Ms. Welch have had conversations with the justices of the MI Supreme Court about this issue as well, as the Court's buy-in is essential.

Lawyer Referral Services Update

Ms. Welch asked Ms. Vrooman to provide the Board with an update on the Lawyer Referral Services Program. The LRS portal was launched in mid-April with great feedback so far from attorneys. SBM will be able to review data that was not available in the past and focus on customer service providing appropriate information and recommendations. Ms. Vrooman said that the next phase is the consumer side of the portal and that while MI Legal Help is currently available, the program will work towards integrating the triage function of the portal with MI Legal Help.

SBM Holiday Building Closure Update

Ms. Welch reported that during the holiday closure of the SBM building she responded to about 44 calls. She said that while most of the calls were not emergencies, there were a few that requested a referral for a lawyer. In the future, the SBM might consider having the LRS available for assistance during that time.

Goals and Priorities for FY 2019

This report will be deferred to the April meeting.

Cloud Law and *Fleck v Wetch*

This item will be discussed in closed session.

The Board went into a closed session at 10:40 a.m. to discuss CloudLaw and litigation on the *Fleck v Welch* decision.

The Board returned to open session at 11:50 a.m.

A motion was offered and supported to file an amicus brief in the *Fleck* decision in the U.S. Court of Appeals for the 8th Circuit. The motion was approved.

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

Mr. Cunningham reported that preparation is underway for the April 13 meeting including preparation of an agenda. He stated that agenda that will include a report on the Interim Administrator/Receivership, the amicus brief in the *Fleck* decision, and the Governance Task Force.

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

In Ms. Hart-Negrich's absence, Ms. Davidson provided the Board with an update on some of the recent activities of the YLS Council and its members.

Ms. Davidson stated that the YLS Council is planning to issue a challenge to the BOC again this year, but are unsure what the challenge will be. The event will take place on April 12 and more information will be sent to the Board members.

COMMISSIONER COMMITTEES REPORTS

Finance Committee Report, James W. Heath, Chairperson

Mr. Heath reviewed the highlights of the FY 2019 financial reports through November 2018. He also reported that the committee reviewed bid waiver exceptions and discussed new policy regarding money transfers that will be brought before the Board in April.

Professional Standards, Dana M. Warnez, Chairperson

Ms. Warnez reported that there is no new business to come before the Board. She stated that the committee members met this morning to complete their orientation to the committee.

Communications and Member Services, Robert J. Buchanan, Chairperson

Mr. Buchanan stated that there were three items for the Board's consideration today.

TALI Software

Mr. Buchanan provided the Board with information about a new member benefit called TALI, which is a conversational time-tracking program and is described in the board materials.

A motion was offered and supported to approve offering this benefit to SBM members. The motion was approved

Master Lawyer Section Transition

Mr. Buchanan reported to the Board that the committee is recommending that the State Bar re-tool the way the SBM serves the Master Lawyers Section and also recommends that the State Bar dissolve the Master Lawyers Section at the end of the current bar year. A memo from Ron Keefe, past president of the State Bar, supporting this recommendation was included in the board materials.

A motion was offered and supported that the Master Lawyers Section be dissolved with the provision that staff will continue providing support as described in the memo. The motion was approved.

NEXT Conference/Annual Meeting

Mr. Buchanan reported that the Board had received a memo via email describing the scaled back version of the NEXT Conference/annual meeting. The memo describes the challenges the State Bar faces each year with the annual meeting and provides a road map on how to scale it down to events which are required by the bylaws and rules governing the State Bar.

A motion was offered and supported to adopt the scaled back version of the NEXT Conference as described in the memo that was distributed to the Board. The motion was approved.

Public Policy, Dennis M. Barnes, Chairperson

Court Rules

ADM File No. 2017-27: Proposed Amendment of MCR 6.425

The proposed amendment of MCR 6.425 would make the rule consistent that requests for counsel must be filed within 42 days, as opposed to simply “made” or “completed and returned.” It would also remove the requirement for a sentencing judge to articulate substantial and compelling reasons to deviate from the guidelines range, pursuant to *People v Lockeridge*, 498 Mich 358; 870 NW2d 502 (2015).

A motion was offered and supported to adopt the Criminal Jurisprudence & Practice Committee position, which states: Keep the “filed with the court” language proposed by the court; incorporate the prisoner mailbox rule into this rule; explicitly provide the defendant with the opportunity to file the request at sentencing; and delete the “substantial & compelling” language to be consistent with the Court’s ruling in *People v Lockeridge*. The motion was approved.

ADM File No. 2018-04: Proposed Amendments of MCR 7.212 and 7.312

The proposed amendments of MCR 7.212 and 7.312 would require amicus briefs to indicate certain information regarding the preparation of the brief and disclosure of monetary contributions. The proposal would be similar to Supreme Court Rule 37.6.

The Board decided to take no position on this proposed amendment.

Proposed Amendment to MCR 5.117 to Allow Limited Scope Representation in Probate Proceedings

A motion was offered and supported to adopt the amendment to Rule 5.117 as proposed by the Affordable Legal Services Committee. The motion was approved.

Other

Non-Fee-Generating Cases – Letter from Legal Services Association of Michigan (LSAM)

A motion was offered and supported that that the issue is *Keller*-permissible as it pertains to the availability of legal services to society. The motion was approved.

A motion was offered and supported to support the categories of “Non-fee-generating cases” as expressed in the letter from LSAM dated September 12, 2018. The motion was approved.

Mr. Barnes reported that the State Bar staff will send a letter from the SBM to LSAM informing them of the decision of the Board.

OTHER REPORTS

American Bar Association (ABA) Report

Mr. Ulrich reported that the ABA Mid-year meeting will take place in January in Las Vegas with only one day scheduled for the meeting of the House of Delegates. He stated that there is one issue that is front and center with the delegation and that is a proposal to increase the pass rate of law schools to 75 percent within two years of graduation.

FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

Comments or Questions from Commissioners

There were none.

Comments or Questions from the Public

There were none.

Adjournment

The meeting was adjourned at 12:48 p.m.

President Grieco called the teleconference meeting of the Board to order at 4:05 p.m. on, Friday, March 8, 2019

Commissioners present:

Danielle Mason Anderson
David C. Anderson
Dennis M. Barnes, President-Elect
Aaron V. Burrell
Hon. Clinton Canady III
B.D. "Chris" Christenson
Richard L. Cunningham
Josephine A. DeLorenzo
Jennifer M. Grieco, President
Lisa J. Hamameh
Kara R. Hart-Negrich

Edward L. Haroutunian
Thomas H. Howlett
E. Thomas McCarthy Jr.
Joseph P. McGill
Barry R. Powers
Victoria A. Radke
Chelsea M. Rebeck
Gregory L. Ulrich
Dana M. Warnez, Secretary
Erane C. Washington

Commissioners absent and excused:

Joseph J. Baumann
Robert J. Buchanan, Vice President
Syeda F. Davidson
Shauna L. Dunnings
Andrew F. Fink III

James W. Heath, Treasurer
Michael S. Hohausser
Hon. David A. Perkins
Daniel D. Quick
Ryan Zemke

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

Court Rules

ADM File No. 2017-28 - Proposed Amendments of MCR 1.109, MCR 8.119, and Administrative Order 1999-41

The proposed amendments would make certain personal identifying information nonpublic and clarify the process regarding redaction.

A motion was offered and seconded to support the Court's efforts to address the protection of personal identifying information, oppose the current amendments as drafted, provide to the Court all the comments received from sections and committees, and request that the Court publish for comment revised amendments before adopting them. The motion carried.

ADM File No. 2018-06: Proposed Amendments of MCR 1.111 and 8.127

These two proposals, which would promote greater confidence that a qualified foreign language interpreter is proficient in the language and would reduce the possibility that renewals are delayed, were recommended to the Court by the Foreign Language Board of Review.

A motion was offered and seconded to support this amendment. The motion carried.

ADM File No. 2018-13 - Proposed New Rule 3.22X

This proposal was developed by a workgroup facilitated by SCAO's Friend of the Court division to make more uniform the ADR processes used by Friend of the Court offices.

A motion was offered and seconded to support this amendment in principle, but oppose the rule as drafted and request that the rules be revised to address the following concerns: (1) attorneys should be allowed to be present at any meeting in which an order may be generated; (2) the rules should provide for adequate domestic violence screening, protocols, and training; (3) confidentiality provisions should be consistent with other confidentiality mandates in the rule; (4) the language regarding automatic orders being generated should be stricken; (5) the language regarding protective orders in subsection (D)(1) should be clarified whether it applies to all parties that have been subject to any PPO, persons who have been subject to a PPO involving another party, persons who have been subject to a PPO concerning domestic abuse or abuse or neglect of any child; and (6) subsection (D)(1) should be amended as follows:

Parties who are, or have been, subject to a personal protection order or other protective order or who are involved in a **past or present** child abuse and neglect proceeding may not be referred to friend of the court ADR without a hearing to determine whether friend of the court ADR is appropriate. The court may order ADR if a protected party requests it without holding a hearing.

The motion carried.

ADM File No. 2017-17: Proposed Amendments of MCR 6.001, 6.006, 6.425, 6.427, 6.610, 7.202, and 7.208 and Proposed New MCR 6.430

The proposed amendments would more explicitly require restitution to be ordered at the time of sentencing as required by statute, and would establish a procedure for modifying restitution amounts. This published version was based on an original submission from the State Appellate Defenders Office, but includes additional revisions and alternative language as well.

A motion was offered and seconded to support the rule with the following amendments: (1) to address the issue of restitution not being known at the time of sentencing, support the Michigan District Judges Association's rule language for MCR 6.427(11) and 6.425(E); (2) support the Court of Appeals' recommendations that appeals of orders amending restitution be by leave, rather than by right; and (3) remove the reference of the trial court's authority over motions to amend restitution, as it is unnecessary for the reasons stated by the Court of Appeals. The motion carried.

ADM File No. 2018-23: Proposed Amendment of MCR 6.001

The proposed amendment of MCR 6.001 would allow for discovery in criminal cases heard in district court to the same extent that it is available for criminal cases heard in circuit court. The proposal was submitted by the Michigan District Judges Association. The MDJA noted that although many prosecutors provide discovery, there is no rule mandating it. The MDJA also noted that if the general discovery rule (MCR 6.201) is made applicable to district court criminal cases, subsection (I) could be used to limit its application where full-blown discovery may not be appropriate.

A motion was offered and seconded to support the rule proposal in principle, but encourage the Court to revise the rule in light of the numerous concerns that have been raised in the comments submitted to the Court and note that implementation of electronic discovery may lessen the impact of requiring discovery in misdemeanor cases. The motion carried.

The meeting was adjourned at 4:40 p.m.

State Bar of Michigan
Executive Committee Conference Call
Tuesday, January 8, 2019
4:00 p.m.

Call to Order: President Grieco called the meeting to order at 4:03 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, and Commissioners Syeda F. Davidson, Daniel D. Quick, and Erane C. Washington.

Members Absent: Vice President Robert J. Buchanan and Representative Assembly Vice-Chair Aaron V. Burrell.

State Bar Staff Present: Janet Welch, Executive Director; Margaret Bossenbery, Executive Coordinator; Nancy Brown, Director of Member and Communication Services; Greg 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; Cliff Flood, General Counsel; 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 December 11, 2018 meeting minutes

A motion was made and seconded to approve the December 11, 2018 Executive Committee meeting minutes. The motion passed.

President's Report

President Grieco reported on the formation of the Professionalism Summit workgroup that will be led by Ed Pappas. She also reported on the Governance Task Force being formed and the consultant that is recommended to assist in the effort that is planned to be conducted in phases over the next year. In addition, she is also working on appointing other committees and will report at the January BOC meeting. Finally, Ms. Grieco reported on her recent meetings and speaking engagements.

Representative Assembly Chair's Report

Representative Assembly Chair Cunningham reported that the RA Nominating Committee is working on filling vacant RA seats.

Executive Director's Report

Ms. Welch reported on the C&F fee increase approved by the Court. She also reviewed the plan and team of outside legal consultants she is putting together for a possible amicus brief to the 8th Circuit in *Fleck v. Wetch*. She is in the process of collecting data from mandatory bars about their regulatory and public service activities and noted there is a wide range of regulatory oversight among the mandatory bars. She also reported on her upcoming NABE webinar speaking engagement on this topic, and that she will be speaking at three events at the NABE/NCBP/ABA meetings on this topic in Las Vegas later this month and presenting on this topic at the APRL (Association of Professional Responsibility Lawyers) Conference in May in Vancouver.

Ms. Welch also reported on an upcoming meeting with CloudLaw to discuss options going forward regarding the member directory and is in ongoing discussions with the Illinois State Bar Association on lawyer referral service collaboration. Further, she reported that staff has issued an RFP for a tech audit and received several responses from consultants. Also, pre-suspension notices for unpaid dues will be mailed next week (8% less than last year).

Finally, Ms. Welch and Ms. Grieco have discussed the potential to hold the EC calls on the Zoom videoconferencing application. The EC will be sent directions to download the app for the EC next call.

Next Conference/Annual Meeting

Ms. Grieco reported that the Communications & Member Services BOC Committee and the Professional Education & Events Committee unanimously approved the recommended changes to the 2019 and 2020 Next Conference as explained in the proposal to scale back the annual meeting based on low attendance and rising costs, and to make further changes to the event after 2020 as recommended. Ms. Welch reiterated that we need to make a decision and execute a contract change this month in order to take advantage of the savings identified. Ms. Thrush answered questions, and will update the financial impacts in the memo. The proposal will go to the BOC for consideration at the January meeting.

Master Lawyer's Section

Ms. Grieco reviewed the staff memo with recommendations concerning the Masters Lawyers Section and asked for input. Ms. Welch noted that implementing the recommendations will result in serving this member segment more effectively. After discussion, Ms. Grieco reported that the recommendations will be going to the BOC for consideration at the January meeting.

Sponsorship Request

Mr. Flood reviewed a sponsorship request to sponsor an ad in recognition of former State Bar of Michigan president Hon. Dennis Archer as recipient of the American Bar Foundation Fellows Outstanding Service Award for 2018-2019. A motion was made and seconded to approve payment for a full page ad for \$800. The motion passed.

Agenda for January 18, 2019 Board Meeting

Ms. Bossenbery reviewed the proposed January BOC agenda. After discussion, a motion was made and seconded to approve the agenda. The motion passed.

Other

Nothing to report.

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
February 7, 2019

State Bar of Michigan
Executive Committee Conference Call
Tuesday, February 12, 2019
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, Vice President Robert J. Buchanan, 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: None

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

Approval of January 8, 2019 meeting minutes

A motion was made and seconded to approve the January 8, 2019 Executive Committee meeting minutes. The motion passed.

President's Report

President Grieco reported on the passing of Commissioner Travis Weber. We will be deciding how to communicate this, and please keep his family in your thoughts. A Governance Task Force meeting is planned for March 18, 2019. Sections, other bar associations and other impacted groups were notified on the changes to the annual meeting and awards event. It was suggested that the Respected Advocate award be published in the *Michigan Bar Journal*. Finally, Ms. Grieco reported on the recent ABA and NABP meetings she attended in Las Vegas along with Ms. Welch and Mr. Barnes. Many timely professional issues were discussed including diversity, attorney wellness, and issues with the integrated bar.

Representative Assembly Chair's Report

Representative Assembly Chair Cunningham reported that the RA Nominating Committee is working on filling vacant RA seats. There was a special election held in Washtenaw County (22th Circuit), and a Nominating & Awards committee meeting is planned to discuss RA awards.

Executive Director's Report

Ms. Welch reported on the ABA/NABE/NCBP meetings in Las Vegas, and *Fleck v. Wetch* developments.

Ms. Welch also reported that the decision to discontinue the Master Lawyers Section has resulted in some discussion within the section on next steps, and that the section may change to a voluntary section for next year.

Mr. Horsch reported on the anticipated number of suspensions for non-payment of dues, lower than last year.

Mr. Conyers reported on plans to provide implicit bias training to the Prosecuting Attorney Association of Michigan (PAAM), and on plans to collaborate with other groups consistent with the strategic plan.

Mr. Peter Cunningham provided an update on the new legislative session and explained that if identical bills are reintroduced in a new session, the State Bar takes the same position we took as before unless and until the Board determines otherwise. He reported that the bill concerning “good moral character” should not apply to attorneys, and his work on that effort. He also reported on the Judicial Qualifications Committee activity with the new Governor and her transition team, and on a new emphasis to expand the notification of judicial vacancies. Finally, Mr. Cunningham reported there will be a March 8, 2019 BOC meeting with five court rules on the agenda, and there will be a Public Policy Committee meeting prior to the BOC meeting.

U.S Courts Committee Proposed Rule Amendment

Mr. Flood reviewed the request for the committee to submit to the Rules Committee for the US District Court for the Eastern District of Michigan a local rules amendment proposal for local rules LR 7.1(e) and LCrR 12.1, both of which related to motion practice. The issue is being presented to the Executive Committee because the U.S. Courts Committee’s last scheduled meetings will occur before the next regularly scheduled BOC meeting. A motion was made and seconded to allow the committee to send a letter on the proposed amendments. The motion passed. Mr. Quick abstained.

Other

Ms. Bossenbery reported that the 2019-20 bar year election notice will be in the March *Michigan Bar Journal*, and explained the election schedule. Ms. Grieco encouraged the EC members to promote (via social media) the opportunity to serve in a State Bar elected office.

Adjournment

There being no further business for the Executive Committee, President Grieco adjourned the meeting at 4:38 p.m.

Submitted by James C. Horsch
March 20, 2019

III. President's Activities

**President Jennifer M. Grieco
President's Activities
January 19 through April 12, 2019**

Date	Event	Location
January 24 – 29	American Bar Association Mid-Year meeting NCBP meeting House of Delegates meeting	Birmingham
February 7	Michigan Asian Pacific American Bar Association dinner	Farmington Hills
February 12	SBM Executive Committee conference call	Birmingham
February 14	Oakland County Bar Association Membership Maximizer	Bloomfield Hills
February 14	Women Lawyers Association of Michigan	Bloomfield Hills
February 15	Wayne State University Law School Professionalism Program	Detroit
February 18	Diversity Meeting with OCBA/SBM	Birmingham
February 18	Human Trafficking Meeting – service providers	Troy
February 19	Meeting with Chief Justice Bridget McCormack, Janet Welch, Peter Cunningham, & Katie Hennessey	Ann Arbor
February 25	Genesee County Bar Association meeting	Flint
February 25	Calhoun County Bar Association meeting	Marshall
March 1	Oakland County Bar Association Bench Bar conference	Troy
March 7	SBM Officers' Dinner	Brighton
March 8	SBM Board of Commissioners Public Policy Conference call	Birmingham
March 13	Conference call on Wellness with Tish Vincent/JoAnn Hathaway	Birmingham
March 14	Berrien and Cass Counties LRS Program	Dowagiac
March 15	Conference call on Wellness with YLS	Birmingham
March 18	Governance Task Force Meeting	Troy

Date	Event	Location
March 19	Rochester Bar Association	Rochester
March 20	Michigan Association of Justice Women's – Judges Event	Pleasant Ridge
March 22	Lakeshore Legal Services Program Wide Meeting	Roseville
March 23	Michigan Center for Civic Education – High School Mock Trial Program Judge	Lansing
March 25	Birmingham Rotary Club meeting	Birmingham
March 26	Human Trafficking Meeting – Michigan Human Trafficking Commission, State Police, OCBA, Straker, Lakeshore	Southfield
March 26	SBM Executive Committee conference call	Birmingham
March 28	10th Annual Michael K. Lee "Celebrating Our Diverse Bar" mixer	Detroit
April 6	Wolverine Bar Association/Foundation Barristers' Ball	Detroit
April 7	SBM Diversity & Inclusion Committee Brunch for Bars	Detroit
April 9-10	ABA Lobby Days	Washington D.C.
April 11	Negligence Law Section in Conjunction with the Michigan Association of Justice and Michigan Defense Trial Counsel Young/New Lawyers reception	Detroit
April 12	SBM Board of Commissioners meeting	Lansing

**IV. Executive Director's
Activities**

**Executive Director Janet K. Welch
Executive Director Activities
January 19 through April 12, 2019**

Date	Event	Location
January 21	Conference call with Tony Weiler, Executive Director, State Bar Association of North Dakota	Lansing
January 24 – 29	American Bar Association Mid-Year meeting NABE meeting NCBP meeting House of Delegates meeting	Las Vegas
January 30	CloudLaw conference call	Lansing
February 5	Conference call with reporter from Detroit Legal News	Lansing
February 6	CloudLaw conference call	Lansing
February 7	Conference call with panel members of the “Future of the Unified Bar” presentation at the ABA National Conference on Professional Responsibility	Lansing
February 12	SBM Executive Committee conference call	Lansing
February 13	Conference call with MI Supreme Court Historical Society Oral History committee	Lansing
February 14	Conference call with panel members of the “Risk and Reward” presentation at the ABA Bar Leadership Institute	Lansing
February 19	Meeting with Chief Justice Bridget McCormack, SBM President Jennifer Grieco, Peter Cunningham, and Katie Hennessey	Ann Arbor
February 19	Conference call with the Religious Liberty Section	Lansing
February 20	Conference call with the Finance Subcommittee on planning for the next dues increase	Lansing
February 22	Conference call with John Bursch, appellate counsel	Lansing
February 25	ICLE Executive Committee meeting	Ann Arbor
February 28	SBM Technology Audit Stakeholders meeting	Lansing
February 28	Conference call with panel members of the “Age Related Impairment and Transitioning into Retirement” presentation at the ABA National Forum on Client Protection	Lansing

Date	Event	Location
March 5	Conference call with Mark Totten, Chief Legal Counsel, Governor Gretchen Whitmer	Lansing
March 6	Conference call with ABA Standing Committee on Bar Activities (SCOBAS)	Lansing
March 7	Conference call with SBM Public Policy Committee	Lansing
March 7	Conference call with John Bursch and Joint Defense Agreement signers	Lansing
March 7	Conference call with panel members of the “Future of the Unified Bar” presentation at the ABA National Conference on Professional Responsibility	Lansing
March 7	SBM Officers dinner	Brighton
March 8	Conference call with Robert Craghead, Executive Director, Illinois State Bar	Lansing
March 8	Conference call with Will Hornsby, Consultant for impending Task Force on the Ethics and Regulation of Legal Services Marketing	Lansing
March 8	Conference call with Trey Appfel, Executive Director, State Bar of Texas	Lansing
March 8	SBM Board of Commissioners Public Policy Conference call	Lansing
March 12	Meeting with SBM Judicial Qualifications Co-Chairs and Mark Totten, Chief Legal Counsel, Governor Whitmer’s office	Lansing
March 13 – 15	ABA Bar Leadership Institute Meeting with SCOBAS committee	Chicago
March 18	Task Force on State Bar Operation, Structure, and Governance meeting	Troy
March 19	Budget Review meetings with SBM staff	Lansing
March 19	Conference call with Chase Hertel, Deputy Director and Counsel, ABA Center for Innovation	Lansing
March 20	Budget review meetings with SBM staff	Lansing
March 20	Conference call with the Finance Subcommittee on dues cycle planning	Lansing
March 21	Meeting with staff regarding Future SBM Goals	Lansing
March 26	Integrated Tech committee meeting	Lansing

Date	Event	Location
March 26	SBM Executive Committee conference call	Lansing
March 27	Meeting with David Watson, Executive Director, ICLE	Ann Arbor
March 27	Meeting with Julia Darlow, former SBM President	Ann Arbor
March 27 – 29	Michigan Appellate Bench Bar Conference	Plymouth
March 29	CloudLaw conference call	Lansing
April 1	CloudLaw conference call	Lansing
April 2	Conference call with panel members of the “Future of the Unified Bar” presentation at the ABA National Conference on Professional Responsibility	Lansing
April 2	Conference Call with State Bar of Texas	Lansing
April 3	Task Force on State Bar Operation, Structure, and Governance conference call	Lansing
April 3	Justice for All planning meeting	Lansing
April 6	Wolverine Bar Association Barristers’ Ball	Detroit
April 7	SBM Diversity & Inclusion Committee Brunch for Bars	Detroit
April 8	Review of IT Audit Report meeting	Lansing
April 12	SBM Board of Commissioners meeting	Lansing

**V - A. FY 2019 Financial
Reports through
February 2019**

State Bar of Michigan Financial Results Summary

5 Months Ended February 28, 2019

Fiscal Year 2019

Administrative Fund

Summary of YTD February 28, 2019, Actual Results

For the five months ended February 28, 2019, the State Bar had an Operating Loss of \$514,200 and Non-Operating Income of \$315,424 (\$197,485 gain due to the Retiree Health Care Trust), for a decrease in Net Position of \$188,776 so far in FY 2019. Net Position as of February 28, 2019 totaled \$12,611,995. Net Position excluding the impacts of the Retiree Health Care Trust of \$1,738,621 totaled \$10,873,374.

YTD Variance from Budget Summary:

YTD Operating Revenue - \$610 unfavorable to YTD budget, or 0.0%

YTD Operating Expense - \$227,808 favorable to YTD budget, or 4.7%

YTD Non-Operating Income - \$250,069 favorable to YTD budget, or 331.9%

YTD Change in Net Position - \$477,267 favorable to YTD budget

YTD Key Budget Variances:

YTD Operating Revenue variance - \$610 unfavorable to budget:

- Operating revenue was favorable to budget by \$10,000 for a Diversity program grant that was not budgeted; Dues and Related net of Pro Hac Vice fees and Other by \$1,549, or 0.04%; partially offset by unfavorable variances of Member & Communication Services by \$6,513, or 1.8%, and Professional Standards of \$5,646, or 2.7%.

YTD Operating Expense variance - \$227,808 favorable to budget:

- Salaries and Employee Benefits/ Payroll Taxes - \$115,491 favorable - (3.8%)
 - Underage in salaries and benefits due to vacancies, including no longer expensing retiree health care trust contributions. Additionally, health care expenses are under budget.
- Non-Labor Operating Expenses - \$112,317 favorable - (6.2%)
 - Exec Offices - \$6,563 favorable - (1.9%) - Primarily Outreach and Justice Initiatives - some timing.
 - Finance & Admin - \$2,611 favorable - (0.4%) - Under in Facilities Services and partially offset in Financial Services - some timing.

- Member & Communication Services - \$76,709 favorable - (10.8%) - Primarily Internet, Bar Journal, Member & Endorsed Services and e-Journal; and to a lesser extent some other departments - some timing.
- Professional Standards - \$26,434 favorable - (39.8%) - Primarily C&F; and to a lesser extent, other departments - some timing.

YTD Non-Operating Revenue Budget Variance - \$250,069 favorable to budget

- Investment income is favorable to budget by \$52,584, or 69.8%, due to higher interest rates and more favorable cash management opportunities than planned. Retiree Health Care Trust investment income is favorable to budget by \$197,485 due to investment gains, as no income or loss was budgeted for this item.

Cash and Investment Balance – Admin Fund

As of February 28, 2019, 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 \$11,499,614.

SBM Retiree Health Care Trust

As of February 28, 2019, the SBM Retiree Health Care Trust had a fund balance of \$3,269,519, which is an increase of \$197,485 so far in FY 2019, due to investment gains.

Capital Budget – Admin Fund

Through February 28, 2019, YTD capital expenditures totaled \$69,950 which is over the YTD capital budget by \$45,000 due to higher capital spending on the e-commerce site that was not anticipated in the budget, expected to be offset by other lower project expenditures.

Administrative Fund FY 2019 Year-End Financial Forecast

We are projecting to do better than the FY 2019 budget by over \$400,000, not including the investment impacts of the retiree health care trust, now consolidated within the Administrative Fund and not included in the 2019 budget. This is primarily due to the changes to the Annual Meeting, lower health care, better investment income, and lower operational expenses.

Client Protection Fund

The Net Position of the Client Protection Fund as of February 28, 2019 totaled \$1,895,628, a decrease of \$114,126 so far in FY 2019.

SBM Membership

As of February 28, 2019, the total active, inactive and emeritus membership in good standing totaled 45,649 attorney members, for a net decrease of 66 members so far in FY 2019, due to the February suspensions for non-payment of dues (438 active and 55 inactive members). Active members totaled 42,100 and dues paying members (active and inactive less than 50 years of service) totaled 41,723. A total of 593 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
February 28, 2019**

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 Dec 31, 2018 and Feb 28, 2019

	Dec 31, 2018	Feb 28, 2019	Increase (Decrease)	%	Beginning of FY 2019 October 1, 2018
ASSETS AND DEFERRED OUTFLOWS					
Assets					
Cash	5,926,973	4,530,693	(1,396,281)	(23.6%)	871,888
Investments (CDARS and CD's)	10,193,528	10,193,528	0	0.0%	9,213,528
Accounts Receivable	188,678	215,036	26,360	14.0%	229,144
Due from (to) CPF	(266,940)	(165,615)	101,324	38.0%	15,354
Due from (to) Sections	(3,247,105)	(3,058,991)	188,115	5.8%	(2,256,271)
Due from Attorney Discipline System	0	0	0	N/A	344,632
Inventory	25,170	34,098	8,928	35.5%	23,412
Prepaid Expenses	252,464	295,946	43,481	17.2%	400,408
Retiree Health Care Trust Investment	2,954,215	3,266,519	315,304	10.7%	3,030,926
Capital Assets, net	3,914,940	3,655,567	(259,373)	(6.6%)	4,008,941
Total Assets	\$19,941,925	\$19,166,772	(\$772,153)	(3.9%)	\$15,881,962
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
TOTAL ASSETS AND DEFERRED OUTFLOWS	\$20,119,702	\$19,347,548	(\$772,153)	(3.8%)	\$16,059,738
LIABILITIES, DEFERRED INFLOWS AND NET POSITION					
Liabilities					
Accounts Payable	3,567	240	(2,727)	(76.5%)	566,297
Accrued Expenses	513,248	460,637	(52,610)	(10.3%)	483,538
Unearned Revenue	5,197,771	4,323,890	(873,881)	(16.8%)	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
Total Liabilities	\$7,612,976	\$6,663,757	(\$929,218)	(12.2%)	\$3,207,171
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
Total Liabilities and Deferred Inflows	\$7,664,772	\$6,735,553	(\$929,218)	(12.1%)	\$3,258,967
Net Position					
Invested in capital assets, net of related debt	3,914,940	3,655,567	(259,373)	(6.6%)	4,008,941
Invested in retiree health care, net of related liability	1,423,317	1,738,621	315,304	22.2%	1,500,028
Unrestricted	7,116,672	7,017,817	(98,855)	(1.4%)	8,791,830
Total Net Position	\$12,454,930	\$12,411,995	(\$42,935)	(0.3%)	\$12,800,771
TOTAL LIABILITIES, DEFERRED INFLOWS AND NET POSITION	\$20,119,702	\$19,347,548	(\$772,153)	(3.8%)	\$16,059,738

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 \$11,499,614(See below):

	Dec 31, 2018	Feb 28, 2019	Increase (Decrease)	%	Beginning of FY 2019 October 1, 2018
CASH AND INVESTMENT BALANCES					
Cash	5,926,973	4,530,693	(1,396,281)	(23.6%)	871,888
Investments	10,193,528	10,193,528	0	0.0%	9,213,528
Total Available Cash and Investments	\$16,120,501	\$14,724,220	(1,396,281)	(8.7%)	\$10,085,416
Less:					
Due to Sections	3,247,105	3,058,991	(188,115)	(5.8%)	2,256,271
Due to CPF	266,940	165,615	(101,324)	(38.0%)	(15,354)
Due to Sections and CPF	\$3,514,045	\$3,224,606	(289,439)	(8.2%)	2,240,917
Net Administrative Fund Cash and Investment Balance	\$12,606,457	\$11,499,614	(\$1,106,842)	(8.8%)	\$7,844,499

State Bar of Michigan
Statement of Revenue, Expense, and Net Assets
For the five months ending February 28, 2019
YTD FY 2019 Revenue

Revenue	<u>YTD Actual</u>	<u>YTD Budget</u>	<u>Variance</u>	<u>Percentage</u>
Executive Offices				
Diversity Grant	10,000	0	10,000	N/A
Finance & Administration				
License Fees, Dues & Related	3,326,707	3,339,692	(12,985)	(0.4%)
Investment Income	127,939	75,355	52,584	69.8%
Investment Income - Ret HC Trust	197,485	0	197,485	N/A
Other Revenue	181,862	167,328	14,534	8.7%
Finance & Administration Total	<u>3,833,993</u>	<u>3,582,375</u>	<u>251,618</u>	<u>7.0%</u>
Member & Communication Services				
Bar Journal Directory	34,769	28,850	5,919	20.5%
Bar Journal 11 issues	91,038	95,721	(4,683)	(4.9%)
Print Center	27,122	31,842	(4,720)	(14.8%)
e-Journal and Internet	39,147	38,083	1,064	2.8%
BCBSM Insurance Program	41,667	41,667	0	0.0%
Credit Card Program	0	0	0	N/A
Annual Meeting	0	0	0	N/A
Labels	716	1,250	(534)	(42.7%)
Upper Michigan Legal Institute	0	100	(100)	N/A
Bar Leadership Forum	0	450	(450)	N/A
Practice Management Resource Center	10	458	(448)	(97.8%)
Lawyer Referral Service (LRS)	57,832	62,167	(4,335)	(7.0%)
Other Member & Endorsed Revenue	62,756	60,982	1,774	2.9%
Member & Communication Services Total	<u>355,057</u>	<u>361,570</u>	<u>(6,513)</u>	<u>(1.8%)</u>
Professional Standards				
Ethics	5,500	4,800	700	14.6%
Character & Fitness	180,045	181,838	(1,793)	(1.0%)
Lawyers and Judges Assistance Program	16,280	20,833	(4,553)	(21.9%)
Professional Standards Total	<u>201,825</u>	<u>207,471</u>	<u>(5,646)</u>	<u>(2.7%)</u>
Total Revenue	4,400,875	4,151,416	249,459	6.0%
Less: Investment Income	127,939	75,355	52,584	69.8%
Investment Income - Ret HC Trust	197,485	0	197,485	N/A
Total Operating Revenue	4,075,451	4,076,061	(610)	(0.0%)

State Bar of Michigan
Statement of Revenue, Expense and Net Assets
For the five months ending February 28, 2019
YTD FY 2019 Expenses

Expenses	YTD Actual	YTD Budget	Variance	Percentage
Executive Offices				
Executive Office	29,392	27,129	2,263	8.3%
Representative Assembly	6,585	6,542	43	0.7%
Board of Commissioners	36,336	35,483	853	2.4%
General Counsel	3,887	6,177	(2,290)	(37.1%)
Governmental Relations	26,109	27,452	(1,343)	(4.9%)
Human Resources (incl. empl benefits)	802,174	881,522	(79,348)	(9.0%)
Outreach, Local Bar & Section Support	103,737	110,300	(6,563)	(6.0%)
Research and Development	6,288	8,300	(2,012)	(24.2%)
Justice Initiatives	78,709	85,233	(6,524)	(7.7%)
Diversity	23,807	22,992	815	3.5%
Salaries	638,754	645,070	(6,316)	(1.0%)
Executive Offices Total	1,755,778	1,856,200	(100,422)	(5.4%)
Finance & Administration				
Administration	13,980	16,173	(2,193)	(13.6%)
Facilities Services	151,536	183,867	(32,331)	(17.6%)
Financial Services	516,109	484,196	31,913	6.6%
Salaries	188,864	200,550	(11,686)	(5.8%)
Finance & Administration Total	870,489	884,786	(14,297)	(1.6%)
Member & Communication Services				
Bar Journal Directory	1,802	700	1,102	157.4%
Bar Journal 11 Issues	217,006	240,010	(23,004)	(9.6%)
Print Center	21,787	26,968	(5,181)	(19.2%)
Internet Department	46,854	77,875	(31,021)	(39.8%)
e-Journal	19,096	26,854	(7,758)	(28.9%)
Media Relations	33,346	37,542	(4,196)	(11.2%)
Member & Endorsed Services	69,231	79,467	(10,236)	(12.9%)
Annual Meeting	8,894	9,000	(106)	(1.2%)
Bar Leadership Forum	435	0	435	N/A
Practice Mgt Resource Center (PMRC)	1,432	2,629	(1,197)	(45.5%)
UMLI	746	0	746	N/A
Lawyer Referral Service (LRS)	4,842	6,875	(2,033)	(29.6%)
Information Technology Services	205,398	199,658	5,740	2.9%
Salaries	848,612	854,617	(6,005)	(0.7%)
Member & Communication Services Total	1,479,481	1,562,195	(82,714)	(5.3%)
Professional Standards				
Character & Fitness (C&F)	13,004	28,960	(15,956)	(55.1%)
Client Protection Fund Dept	4,230	5,537	(1,307)	(23.6%)
Ethics	8,102	12,942	(4,840)	(37.4%)
Unauthorized Practice of Law (UPL)	10,240	12,175	(1,935)	(15.9%)
Lawyer & Judges Assistance Program	4,386	6,782	(2,396)	(35.3%)
Salaries	443,941	447,882	(3,941)	(0.9%)
Professional Standards Total	483,903	514,278	(30,375)	(5.9%)
Total Expense	4,589,651	4,817,459	(227,808)	(4.7%)
Human Resources Detail				
Payroll Taxes	154,936	163,757	(8,821)	(5.4%)
Benefits	615,175	693,897	(78,722)	(11.3%)
Other Expenses	32,063	23,868	8,195	34.3%
Total Human Resources	802,174	881,522	(79,348)	(9.0%)
Financial Services Detail				
Depreciation	223,333	223,333	0	0.0%
Other Expenses	292,776	260,863	31,913	12.2%
Total Financial Services	516,109	484,196	31,913	6.6%
Salaries				
Executive Offices	638,754	645,070	(6,316)	(1.0%)
Finance & Administration	188,864	200,550	(11,686)	(5.8%)
Member Services & Communications	848,612	854,617	(6,005)	(0.7%)
Professional Standards	443,941	447,882	(3,941)	(0.9%)
Total Salaries Expense	2,120,171	2,148,119	(27,948)	(1.3%)
NonLabor Summary				
Executive Offices	346,913	353,476	(6,563)	(1.9%)
Finance & Administration	681,625	684,236	(2,611)	(0.4%)
Member Services & Communications	630,869	707,578	(76,709)	(10.8%)
Professional Standards	39,962	66,396	(26,434)	(39.8%)
Total NonLabor Expense	1,699,369	1,811,686	(112,317)	(6.2%)

State Bar of Michigan
Statement of Revenue, Expense and Net Assets
For the five months ending February 28, 2019
YTD FY 2019 Increase (Decrease) in Net Position Summary

	Actual YTD	Budget YTD	Variance	Percentage	Last Year Actual YTD
Operating Revenue					
- License Fees, Dues & Related	3,326,707	3,339,692	(12,985)	(0.4%)	3,346,345
- All Other Op Revenue	748,744	736,369	12,375	1.7%	692,652
Total Operating Revenue	<u>4,075,451</u>	<u>4,076,061</u>	<u>(610)</u>	<u>(0.0%)</u>	<u>4,038,997</u>
Operating Expenses					
- Labor-related Operating Expenses					
Salaries	2,120,171	2,148,119	(27,948)	(1.3%)	1,849,014
Benefits and PR Taxes	770,111	857,654	(87,543)	(10.2%)	774,882
Total Labor-related Operating Expenses	<u>2,890,282</u>	<u>3,005,773</u>	<u>(115,491)</u>	<u>(3.8%)</u>	<u>2,623,896</u>
- Non-labor Operating Expenses					
Executive Offices	346,913	353,476	(6,563)	(1.9%)	297,080
Finance & Administration	681,625	684,236	(2,611)	(0.4%)	627,586
Member & Communication Services	630,869	707,578	(76,709)	(10.8%)	590,111
Professional Standards	39,962	66,396	(26,434)	(39.8%)	48,740
Total Non-labor Operating Expenses	<u>1,699,369</u>	<u>1,811,686</u>	<u>(112,317)</u>	<u>(6.2%)</u>	<u>1,563,517</u>
Total Operating Expenses	<u>4,589,651</u>	<u>4,817,459</u>	<u>(227,808)</u>	<u>(4.7%)</u>	<u>4,187,413</u>
Operating Income (Loss)	<u>(514,200)</u>	<u>(741,398)</u>	<u>227,198</u>	<u>N/A</u>	<u>(148,416)</u>
Nonoperating Revenue (Expenses)					
Investment Income	127,939	75,355	52,584	69.8%	70,145
Investment Income - Ret HC Trust	197,485	0	197,485	N/A	0
Net Nonoperating revenue (expenses)	<u>325,424</u>	<u>75,355</u>	<u>250,069</u>	<u>331.9%</u>	<u>70,145</u>
Increase (Decrease) in Net Position	<u>(188,776)</u>	<u>(666,043)</u>	<u>477,267</u>	<u>N/A</u>	<u>(78,271)</u>
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>
Net Position - Year-to-Date	<u>\$12,611,995</u>	<u>\$12,134,728</u>	<u>\$477,267</u>	<u>3.9%</u>	<u>\$12,199,604</u>

State Bar of Michigan Administrative Fund
Revenues, Expenses and Net Assets
FY 2019 - Year-End Forecast
Updated March 26, 2019

	FY 2019 Year-End Forecast	FY 2019 Budget	Variance	Percentage	FY 2018 Actual
Operating Revenue					
- License Fees, Dues & Related	7,738,000	7,743,000	(5,000)	(0.1%)	7,732,039
- All Other Op Revenue	1,494,397	1,598,397	(104,000)	(6.5%)	1,632,613
Total Operating Revenue	<u>9,232,397</u>	<u>9,341,397</u>	<u>(109,000)</u>	<u>(1.2%)</u>	<u>9,364,652</u>
Operating Expenses					
- Labor-related Operating Expenses					
Salaries	5,102,392	5,140,392	(38,000)	(0.7%)	4,819,766
Benefits, PR Taxes, and Ret HC Exp	1,774,056	1,924,056	(150,000)	(7.8%)	1,775,841
Total Labor-related Operating Expenses	<u>6,876,448</u>	<u>7,064,448</u>	<u>(188,000)</u>	<u>(2.7%)</u>	<u>6,595,607</u>
- Non-labor Operating Expenses					
Executive Offices	792,850	802,850	(10,000)	(0.8%)	723,555
Finance & Administration	1,343,125	1,333,125	10,000	1.2%	1,179,734
Member & Communication Services	1,583,125	1,848,625	(265,500)	(14.4%)	1,608,750
Professional Standards	151,335	164,335	(13,000)	(7.9%)	145,435
Total Non-labor Operating Expenses	<u>3,870,435</u>	<u>4,148,935</u>	<u>(278,500)</u>	<u>(6.7%)</u>	<u>3,657,474</u>
Total Operating Expenses	<u>10,746,883</u>	<u>11,213,383</u>	<u>(466,500)</u>	<u>(4.2%)</u>	<u>10,253,081</u>
Operating Income (Loss)	<u>(1,514,486)</u>	<u>(1,871,986)</u>	<u>357,500</u>	<u>N/A</u>	<u>(888,429)</u>
Nonoperating Revenue (Expenses)					
Investment Income	220,000	175,000	45,000	25.7%	179,640
Investment Income - Ret HC Trust	0	0	0	N/A	202,417
Loss on Disposal of Capital Assets	0	0	0	N/A	(34,963)
Net Nonoperating Revenue (Expenses)	<u>220,000</u>	<u>175,000</u>	<u>45,000</u>	<u>25.7%</u>	<u>347,094</u>
Increase (Decrease) in Net Position	<u>(1,294,486)</u>	<u>(1,696,986)</u>	<u>402,500</u>	<u>N/A</u>	<u>(541,335)</u>
Net Position - Beginning the Year	<u>12,800,771</u>	<u>12,800,771</u>	<u>0</u>	<u>0.0%</u>	
Net Position - End of the Year	<u>\$11,506,285</u>	<u>\$11,103,785</u>	<u>\$402,500</u>	<u>3.6%</u>	

Operating Revenue forecast

- Under in late fees/reinstatement fees
- Under in primarily in Annual Meeting (\$93k), Member and Endorsed Svcs (\$11k), Print Center (\$9k) and other

Labor forecast:

- Salaries - vacancies and sick leave
- Benefits - under in health care (\$80k), other benefits/payroll taxes (\$26k), and (\$40k) retiree health care due to accounting change

Nonlabor forecast:

- Executive Offices - under in diversity reception (\$8k) and HR exp (\$2k)
- Finance & Administration - over due to higher credit card fees (\$25k) net of lower facilities expenses (\$15k)
- Member Services & Communications - under in Annual Meeting (\$167k), Bar Journal paper and postage (\$31k), website expense (\$26k)
- Member & End Svcs (\$25k), LRS expense (\$15k), eJournal (\$7k), Media Relations (\$5k), PMRC (\$4k), partially offset by higher IT (\$13k)
- Professional Standards - under dues to C&F investigation expense

Non-Operating Income forecast:

- Investment Income - will be better than budget due to higher interest rates than planned

Other forecast issues not reflected in the forecast:

- Potential additional savings in other operating expenses not reflected

State Bar of Michigan
Administrative Fund
FY 2019 Capital Expenditures vs Budget
For the five months ending February 28, 2019

	YTD Actual	YTD Budget	YTD Variance	Variance Explanations	Total Approved FY 2019 Budget	FY 2019 Year-End Forecast	Projected Year-end Variance
<u>Building and Equipment</u>							
Electrical panel upgrade	0	0	0		35,000	35,000	0
Replacement of carpet (2nd, 3rd, 4th)	0	0	0	Will be deferred and used toward additional elevator upgrades	65,000	0	(65,000)
Elevator upgrade	0	0	0		50,000	115,000	65,000
Replacement of floor copiers	0	0	0		35,000	35,000	0
Meeting room technology upgrades	0	0	0		25,000	25,000	0
<u>Information Technology</u>							
e-commerce dues updates	25,000	0	25,000	Unplanned work on e-commerce site (if further work is done, will need to cut back resources on other projects)	0	50,000	50,000
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	No longer needed	10,000	0	(10,000)
C&F Board of Law Examiners portal	22,500	22,500	0		45,000	45,000	0
Firm administration application	0	0	0	Will be deferred	10,000	0	(10,000)
e-service application for court e-filing (e-mail addresses)	0	0	0	Janet is communicating with Court to confirm need	20,000	20,000	0
Firm billing/invoices for dues	0	0	0	Will be deferred	10,000	0	(10,000)
Lawyer referral consumer portal	14,975	15,000	(25)		45,000	45,000	0
Application for soliciting volunteers for committees & work groups phase 2	4,975	5,000	(25)		10,000	10,000	0
Client Protection Fund portal	0	0	0	Will be deferred	20,000	0	(20,000)
Total	\$69,950	\$45,000	\$24,950		\$412,000	\$412,000	\$0

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
February 28, 2019**

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 Dec 31, 2018 and Feb 28, 2019
FY 2019

	Dec 31, 2018	Feb 28, 2019	Increase (Decrease)	%	Beginning of FY 2019 October 1, 2018
Assets					
Cash	289,949	366,288	76,339	26.3%	288,570
Investments (CD's & CDARS)	1,561,092	1,561,092	0	0.0%	1,556,307
Accounts Receivable (Recoveries)	168,810	166,201	(2,609)	(1.6%)	175,001
Due from (to) Administrative Fund	266,940	165,616	(101,325)	N/A	(15,354)
Accrued Interest Receivable	9,810	10,917	1,107	11.3%	9,610
Total Assets	\$ 2,296,601	\$ 2,270,113	\$ (26,488)	(1.2%)	\$ 2,014,134
Liabilities					
Accounts Payable	0	0	0	N/A	0
Unearned Revenue	450,263	374,485	(75,778)	(16.8%)	4,380
Total Liabilities	\$ 450,263	\$ 374,485	(\$75,778)	(16.8%)	\$ 4,380
Net Position					
Net Position at Beginning of Year	2,009,754	2,009,754	0	0.0%	2,009,754
Increase (Decrease) in Net Position	(163,417)	(114,126)	49,291	N/A	0
Total Net Position	1,846,337	1,895,628	49,291	2.7%	2,009,754
Total Liabilities and Net Position	\$ 2,296,600	\$ 2,270,113	\$ (26,487)	(1.2%)	\$ 2,014,134

* Note: In addition, there are authorized but unpaid claims totaling \$0 awaiting signatures of subrogation agreements.

State Bar of Michigan
Client Protection Fund
Statement of Revenue, Expenses, and Changes in Net Assets
For the five months ending Feb 28, 2019
FY 2019

	FY 2019 YTD	Last Year FY 2018 YTD
Revenue		
Contributions Received	18,234	6,132
Member Fee Assessment	268,175	268,905
Pro Hac Vice Fees	6,045	5,010
Claims Recovery	3,525	13,781
Miscellaneous Income	0	0
Total Revenue	295,979	293,828
Expense		
Claims Payments *(See note below)	331,805	412,032
Administrative Fee	88,333	83,475
Litigation and Miscellaneous Expense	0	0
Total Expense	420,138	495,507
Operating Income (Loss)	(124,159)	(201,679)
Investment Income	10,033	6,194
Increase (Decrease) in Net Position	(114,126)	(195,485)
Net Position - Beginning of the Year	2,009,754	
Net Position - End of the Period	1,895,628	

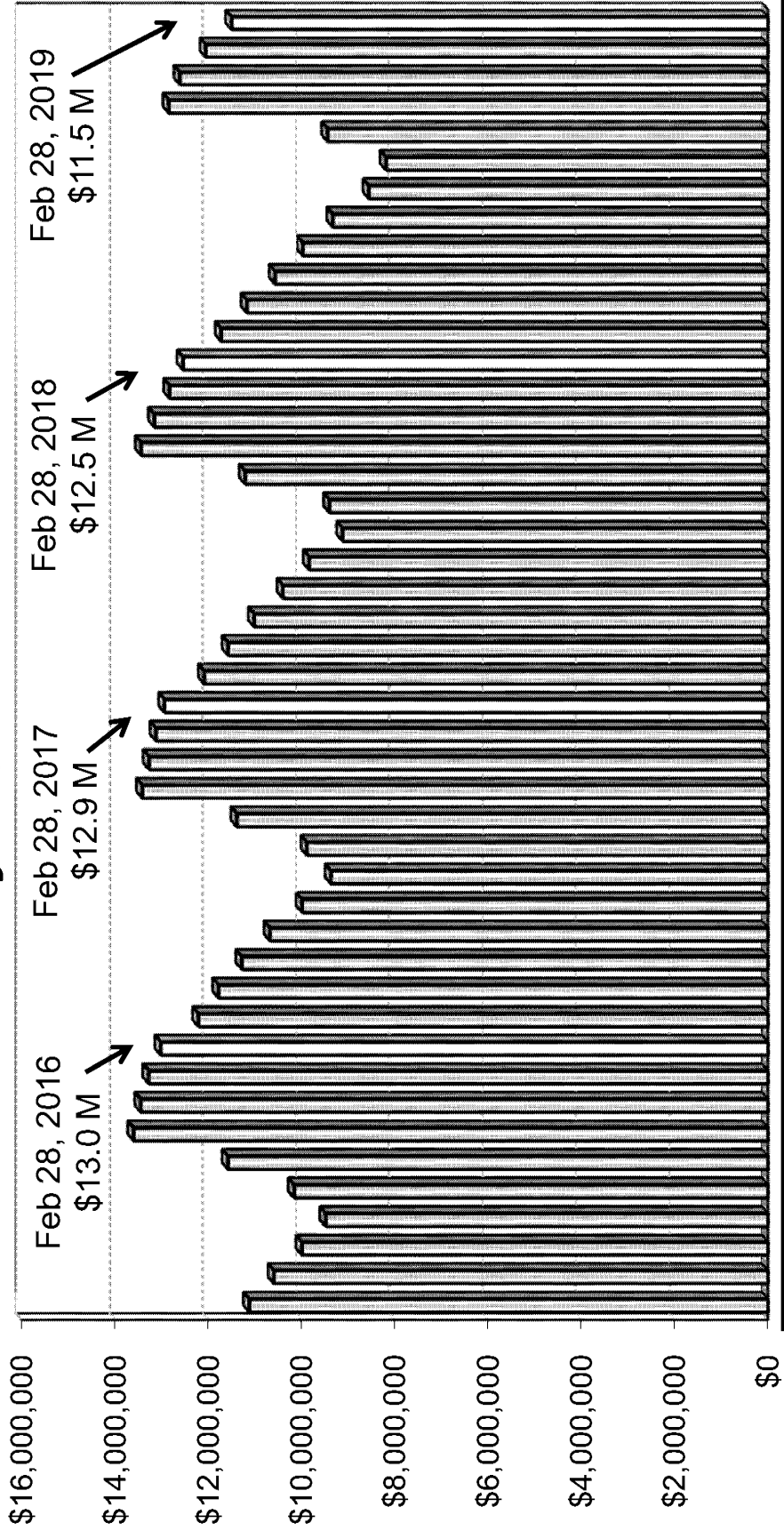
* Note: In addition, there are authorized but unpaid claims totaling \$0 awaiting signatures of subrogation agreements.

SBM Cash & Investment Balances

SBM Cash & Investment Balances

Excluding Sections, Client Protection Fund & Retiree Health Care Trust

February 28, 2019 - \$111.5 M



FY 2016 FY 2017 FY 2018 FY 2019

Note: The State Bar has no bank debt outstanding.

Summary of Cash and Investment Balances by Financial Institution
2/28/2019

Assets	Bank Rating	Financial Institution Summary	Interest Rates	Fund Summary
		SBM Chase Checking \$ 12,484.07		Client Protection Fund \$ 1,927,379.82
		SBM Chase Credit Card \$ 89,049.17		
		SBM Chase E Checking \$ 365.00		State Bar Admin Fund \$ 14,724,220.25
		SBM Chase Payroll \$ (3,457.42)		(including Sections)
		SBM Chase Savings \$ 225,792.46	0.18%	Attorney Discipline System \$ 5,693,139.15
		ADS Chase Checking \$ 9,015.57		SBM Retiree Health Care Trust \$ 3,269,519.12
		CPF Chase Checking \$ 10,809.70		ADB Retiree Health Care Trust \$ 894,565.26
		CPF Chase Savings \$ 76,194.60	0.18%	AGC Retiree Health Care Trust \$ 3,128,170.35
\$2.14 Trillion	4 stars	Chase Totals \$ 420,253.35		Total \$ 29,638,993.75
		ADS Bank of America Petty Cash \$ 426.96	0.00%	
	4 stars	Bank of America Totals \$ 426.96		
		SBM Fifth Third Commercial Now \$ 3,228.93	0.00% ***	
\$140 Billion	5 stars	Fifth Third Totals \$ 3,228.93		
		Grand River Bank Money Market \$ 320,428.09	1.25%	
\$223 Million	4 stars	Grand River Bank Totals \$ 320,428.09		State Bar Admin Fund Summary
		Grand River Bank Total w/CD \$ 818,955.78		Cash and Investments \$ 14,724,220.25
				Less:
		First Community Bank \$ 749,955.25	1.40%	Due (to)/from Sections (3,058,990.57)
\$288 Million	5 stars	First Community Bank Total \$ 749,955.25		Due (to)/from CPF (165,815.44)
		First Community Bank Total w/CD \$ 984,955.25		
		Sterling Bank \$ 2,318.76	0.40%	Due to Sections and CPF \$ (3,224,606.01)
\$2.96 Billion	5 stars	Sterling Bank Total \$ 2,318.76		Net Administrative Fund \$ 11,498,614.24
		Sterling Bank Total w/CD \$ 977,318.76		
		Citizens Bank Checking \$ 100,100.00		SBM Average Weighted Yield: 2.10%
\$122 Billion	4 stars	Citizens Bank Money Market \$ 2,368,610.33	2.25%	ADS Average Weighted Yield: 0.75%
		CPF Citizens Bank CD \$ 500,000.00	2.50%	08/31/19
		Citizens Bank Totals \$ 2,968,710.33		CPF Average Weighted Yield: 1.09%
				Note: average weighted yields exclude retiree health care trusts
\$3.27 Billion	5 stars	Mercantile Bank \$ 1,811,240.72	1.25%	
		Mercantile Bank Total \$ 1,811,240.72		
		Main Street Bank \$ 920,655.17	1.25%	
\$227.5 Million	4 stars	Main Street Bank \$ 920,655.17		
		MSU Credit Union \$ 8.92	0.10%	
\$3.85 Billion	5 stars	MSU Credit Union Total \$ 8.92		
		MSU Credit Union Total w/CD \$ 1,900,008.92		
		SBM Flagstar Savings Account \$ 290,402.73	1.25%	
		ADS Flagstar Checking Account \$ 13,207.00	0.25%	
		ADS Flagstar CDARS - 12 Month \$ 1,500,000.00	0.95%	05/30/19
		ADS Flagstar CDARS - 12 Month \$ 810,000.00	1.35%	11/14/19
		ADS Flagstar CDARS - 12 Month \$ 1,000,000.00	1.35%	11/14/19
		CPF Flagstar Savings \$ 279,283.58	1.25%	
		CPF Flagstar CDARS - 36 Month \$ 257,679.33	0.55%	5/19/19*
		CPF Flagstar CDARS - 24 Month \$ 453,412.21	0.75%	12/28/19*
		CPF Flagstar CDARS - 12 month \$ 350,000.00	1.34%	01/02/20
\$16.8 Billion	4 stars	Flagstar Bank Totals \$ 4,953,984.85		
		SBM - CD Chemical Bank ** \$ 235,000.00	1.75%	10/28/19
\$19.2 Billion	4 stars	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	2.22%	12/12/19
	4 stars	SBM - Grand River Bank \$ 253,527.69	2.50%	05/11/21
\$3.9 Billion	4 stars	SBM - Grand River Bank \$ 245,000.00	2.75%	10/17/20
		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	2.68%	04/25/21
		SBM-CD Horizon Bank \$ 250,000.00	2.68%	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
		SBM-CD Sterling Bank \$ 240,000.00	1.55%	03/30/19
\$397 Million	4 stars	SBM-CD The Dart Bank \$ 240,000.00	2.42%	12/14/19
		SBM-CD The Dart Bank \$ 245,000.00	2.42%	12/14/19
		SBM-CD The Dart Bank \$ 245,000.00	2.42%	12/14/19
		SBM-CD The Dart Bank \$ 245,000.00	2.42%	12/14/19
	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	2.81%	11/21/19
		SBM-CD MSU Credit Union \$ 240,000.00	2.81%	11/21/19
		SBM-CD MSU Credit Union \$ 240,000.00	2.81%	11/21/19
		SBM-CD MSU Credit Union \$ 240,000.00	2.81%	11/21/19
		Bank CD Totals \$ 10,193,527.89		
		Total Cash & Investments (excluding Schwab) \$ 22,344,739.02		
		SBM - Charles Schwab (Ret HC Trust) \$ 3,269,519.12		Mutual Funds
		ADB - Charles Schwab (Ret HC Trust) \$ 894,565.26		Mutual Funds
		AGC - Charles Schwab (Ret HC Trust) \$ 3,128,170.35		Mutual Funds
		Charles Schwab Totals \$ 7,292,254.73		
		Grand Total (including Schwab) \$ 29,638,993.75		
		Total amount of cash and investment (excluding Schwab) not FDIC insured \$ 13,983,220.52	62.58%	

Monthly SBM Member Report - February 28, 2019

FY 2019

Attorney Members and Affiliates in Good Standing	September 30					Current Fiscal Year		
	2013	2014	2015	2016	2017	September 30 2018	February 28 2019	FY Increase (Decrease)
Active	40,475	41,093	41,608	41,921	42,100	42,342	42,100	(242)
Less than 50 yrs serv	39,335	40,036	40,490	40,725	40,833	40,973	40,627	(346)
50 yrs or greater	1,140	1,057	1,118	1,196	1,267	1,369	1,473	104
Voluntary inactive	1,263	1,211	1,218	1,260	1,243	1,169	1,129	(40)
Less than 50 yrs serv	1,231	1,184	1,195	1,230	1,217	1,142	1,096	(46)
50 yrs or greater	32	27	23	20	26	27	33	6
Emeritus	1,391	1,552	1,678	1,841	1,973	2,204	2,420	216
Total Attorneys in Good Standing	43,129	43,856	44,504	45,012	45,316	45,715	45,649	(68)
Dues Paying Members (Active & Inactive less than 50 yrs of Serv)	40,566	41,220	41,685	41,955	42,050	42,115	41,723	(392)
Affiliates								
Legal Administrators	19	14	13	13	13	10	11	1
Legal Assistants	433	413	425	405	400	401	419	18
Total Affiliates in Good Standing	452	427	438	418	413	411	430	19

Total Attorney Members and Former Members in the Database

State Bar of Michigan Member Type	September 30					Current Fiscal Year		
	2013	2014	2015	2016	September 30 2017	Sept 30 2018	February 28 2019	FY Increase (Decrease)
Attorney Members in Good Standing:								
ATA (Active)	40,475	41,093	41,608	41,921	42,100	42,342	42,100	(242)
ATVI (Voluntary Inactive)	1,263	1,211	1,218	1,250	1,243	1,169	1,129	(40)
ATE (Emeritus)	1,391	1,552	1,678	1,841	1,973	2,204	2,420	216
Total Members in Good Standing	43,129	43,856	44,504	45,012	45,316	45,715	45,649	(68)
Attorney Members Not in Good Standing:								
ATN (Suspended for Non-Payment of Dues)	5,248	5,427	5,578	5,743	5,888	6,072	6,494	422
ATDS (Discipline Suspension - Active)	400	407	415	418	430	439	438	(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	17	2
ATNS (Discipline Suspension - Non-Payment of Other Costs)	76	83	92	99	94	95	96	1
ATS (Attorney Suspension - Other)**	1	1	1	1	0	1	1	0
ATR (Revoked)	519	521	517	534	562	563	588	5
ATU (Status Unknown - Last known status was inactive)**	2,174	2,088	2,076	2,074	2,070	2,070	2,070	0
Total Members Not in Good Standing	8,429	8,540	8,693	8,890	9,079	9,294	9,723	429
Other:								
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	1,776	87
ATX (Deceased)	7,797	8,127	8,445	8,720	9,042	9,287	9,428	141
Total Other	9,285	9,692	10,065	10,404	10,806	11,131	11,361	230
Total Attorney Members in Database	50,943	52,086	53,266	54,306	55,201	56,140	56,733	593

* 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.

NIR - not reported

Notes: Through February 28, 2019, a total of 593 new members joined the SBM in FY 2019. A total of 438 Active and 55 Inactive members were suspended in February for non-payment of dues

To: Board of Commissioners, State Bar of Michigan
Members, Attorney Discipline Board
Commissioners, Attorney Grievance Commission

From: Trustee of the State Bar of Michigan Retirement Plan and 457(b) Plan

Subject: 2018 Annual Report - State Bar of Michigan Retirement Plan and 457(b) Plan

Date: April 1, 2019

CC: Janet K. Welch, SBM Executive Director
Alerus Retirement Solutions/Alerus Financial N.A.

Pursuant to Section 5.7 of the State Bar of Michigan Retirement Plan, an Annual Report of the Trustee is required:

“(a) Within a reasonable period of time after the later of the Anniversary Date or receipt of the Employer contribution for each Plan Year, the Trustee, or its agent, shall furnish to the Employer and Administrator a written statement of account with respect to the Plan Year for which such contribution was made setting forth:

- 1) the net income, or loss, of the Trust Fund;*
- 2) the gains, or losses, realized by the Trust Fund upon sales or other disposition of the assets;*
- 3) the increase, or decrease, in the value of the Trust Fund;*
- 4) all payments and distributions made from the Trust Fund; and*
- 5) such further information as the Trustee and/or Administrator deems appropriate.*

(b) The Employer, promptly upon its receipt of each such statement of account, shall acknowledge receipt thereof in writing and advise the Trustee and/or Administrator of its approval or disapproval thereof. Failure by the Employer to disapprove any such statement of account within thirty (30) days after its receipt thereof shall be deemed an approval thereof. The approval by the Employer of any statement of account shall be binding on the Employer and the Trustee as to all matters contained in the statement to the same extent as if the account of the Trustee had been settled by judgment or decree in an action for a judicial settlement of its account in a court of competent jurisdiction in which the Trustee, the Employer and all persons having or claiming an interest in the Plan were parties. However, nothing contained in this Section shall deprive the Trustee of its right to have its accounts judicially settled if the Trustee so desires.”

The State Bar of Michigan Retirement Plan and 457(b) Plan are available to eligible employees of the State Bar of Michigan, Attorney Discipline Board, and Attorney Grievance Commission. The plans' assets (employer and employee contributions, and qualified rollovers) are invested in various mutual funds approved by the Trustee at the direction of each employee in the plans, and held by the State Bar of Michigan Retirement Plan and 457(b) Plan for the benefit of the participants.

Alerus Financial N.A. is the record keeper, custodian, paying agent and third party administrator for the retirement plans and Fidelity serves as the trading agent for the plans' assets. Alerus Financial, N.A. also serves as an investment co-fiduciary for the purpose of providing investment recommendations and monitoring services in accordance with the terms of the investment policy statement.

The SBM Retirement Plan is a 401(a) plan and is used for employer contributions. As of December 31, 2018, there were 127 participants with balances in the 401(a) plan. The 457(b) Plan is used for employee contributions. As of December 31, 2018, there were 122 participants with balances in the 457(b) Plan.

The Co-Trustees of the State Bar of Michigan Retirement Plan and 457(b) Plan met twice during 2017 to review investment performance, decide on the addition of investment funds offered, update the plan documents, decide on loan and withdrawal requests, and handle other administrative matters pertaining to the plans.

A summary of the financial information for both plans for 2018, provided by Alerus, is attached. The minutes of the Trustee meetings are also attached.

Please direct all inquiries to James C. Horsch, Chairperson of the Trustee of the State Bar of Michigan Retirement Plan and 457(b) Plan, at (517) 346-6324.

Sincerely,

The Trustee of the State Bar of Michigan Retirement Plan and 457(b) Plan



Alan M. Gershel, Co-Trustee and AGC Grievance Administrator



Clifford T. Flood, Recording Secretary and SBM General Counsel



Jeanette L. Socia, Co-Trustee and SBM Human Resources Manager



James C. Horsch, Chairperson and SBM Director of Finance & Administration



Mark A. Armitage, Co-Trustee and ADB Executive Director

State Bar of Michigan Retirement Plan - 2018

	Beginning Balance 01/01/18	Gains & Losses	Contributions	Withdrawals	Transfers	Ending Balance 12/31/18
Employee Deferrals	\$ 1,068,303.81	\$ (44,349.87)	\$ -	\$ (59,570.08)	\$ 3,206.47	\$ 967,590.33
Employer Match	2,403,652.39	(110,585.24)	202,921.30	(265,180.65)	36,786.59	2,267,594.39
Employer Contribution	3,837,836.83	(166,375.73)	301,739.50	(384,919.53)	69,060.54	3,657,341.61
Employer Discretionary	880,717.98	(43,799.86)	13,999.44	(62,189.16)	14,326.06	803,054.46
Rollovers	414,553.42	(24,991.56)	-	-	2,872.14	392,434.00
Loans	\$ 193,640.11	\$ 11,162.30	\$ -	\$ 169,766.80	\$ (124,011.21)	\$ 250,558.00
Total	\$ 8,798,704.54	\$ (378,939.96)	\$ 518,660.24	\$ (602,092.62)	\$ 2,240.59	\$ 8,388,572.79

State Bar of Michigan 457(b) Plan - 2018

	Beginning Balance 01/01/18	Gains & Losses	Contributions	Withdrawals	Transfers	Ending Balance 12/31/18
Employee Deferrals	\$ 6,683,996.91	\$ (358,046.18)	\$ 478,878.43	\$ (345,845.39)	\$ -	\$ 6,458,983.77
Total	\$ 6,683,996.91	\$ (358,046.18)	\$ 478,878.43	\$ (345,845.39)	\$ -	\$ 6,458,983.77

- Notes: 1) There were a total of 20 loans outstanding involving 20 employees in the 401a Retirement Plan at the end of 2018.
2) There were a total of 127 participants with balances at the end of 2018, a reduction of 3 participants.
3) There were a total of 122 participants with balances in the 457(b) plan at the end of 2018, an increase of 1 participant.
4) There were a total of 13 withdrawals - 8 separation, 0 in-service, 3 RMD's, 0 QDROs, 0 beneficiary, and 2 hardship withdrawal from the 401a Retirement Plan; and 8 withdrawals - 6 separation, 0 beneficiary, and 2 RMDs from the 457(b) Plan during 2018.
5) Gains and losses are shown net of realized and unrealized gains and losses
6) There were 4 forfeitures during 2018. Separate forfeiture reconciliations have been provided. Forfeitures are used to offset Plan administration expenses and Employer contributions owed. The total amount in the forfeiture account as of 12/31/2018 was \$2,726.19.
7) Ending balances and activity are based on an "effective date" of 12/31/18, which includes all activity that would have been effective during 2018, with the exception of the receivable amounts

MINUTES

Trustees - SBM Retirement Plans
Wednesday, February 14, 2018
2:30 P.M., Library of the State Bar of Michigan

1. Call to Order: Chairperson Horsch called the meeting to order at 2:36 P.M. Trustees Flood and Socia were present in person and Trustees Armitage, Gershel and Horsch were present by teleconference.

Andrew Calogerakis of Alerus was also present by teleconference.

2. Approval of Agenda: A motion was made, supported and passed unanimously to approve the Agenda as presented.

3. Approval of Minutes: A motion was made, supported and passed unanimously to approve the Minutes of the meeting of Wednesday, August 16, 2017.

4. Reports of Alerus representatives:

- a. Mr. Calogerakis provided a financial market update. He also reported that Morningstar has re-categorized the First Eagle Global A fund as a World Large Stock type fund because of its equity holdings, which means the fund will be evaluated under investment return criteria that do not fully accurately reflect its holdings and means it may end up on the watch list sometime in the future. This is an instance where a fund does not readily fit into the existing categories. The fund remains a solid performer.
- b. Watch List: There are no funds currently on the watch list.

5. Investment Policy Statements:

- a. Mr. Calogerakis recommended approval of the Investment Policy Statements Alerus has prepared for our Plans. The Statements more accurately reflect current procedures. A motion was made, supported and passed unanimously to adopt the Investment Policy Statements for both the SBM Retirement and 457(b) Plans and authorize Chairperson Horsch to execute them.

6. Administrator's Report:

- a. Ms. Socia distributed a written report that detailed distributions and loans since the last trustee meeting. There were no hardship requests since our last meeting. Her report is attached. Also, Alerus representatives met with 22 participants to offer advice during separate meetings held on September 11 & 12.
- b. Currently our plans allow individuals who are no longer employed with the three entities to keep their investments with Alerus and we incur expenses in allowing them to do so. Our attorneys have advised us that we can charge such costs back

to the terminated employees so long as we revise our Summary Description Plans accordingly. At present, there are 35 former employees with about \$2,000,000 in assets, which costs us approximately \$500 per quarter. Trustee Socia will consult with Alerus to see if we can deduct the fees from the accounts of the former employees and report back to us at our next meeting.

- c. Trustee Socia revisited the question of whether we should raise to \$5,000 from the current \$1,000 the required threshold to remain in the Plans following termination. Making the change would require amending the plan documents and approval of the boards of all three entities. Before making a recommendation, Ms. Socia will review the numbers to determine how much of an impact the change would have on the funds and the fees associated with the plans. She will also determine how many people would fall off if we were to amend the minimum threshold and will report her findings at our next meeting.

7. Other: None.

8. Adjourn: A motion was made, supported and passed unanimously to adjourn. The meeting adjourned at 3:24 P.M.

The next scheduled meeting: Wednesday, August 15, 2018 at 9:30 A.M.

MINUTES

Trustees - SBM Retirement Plans
Wednesday, August 16, 2018
10:30 A.M., Room 3 of the State Bar of Michigan

1. Call to Order: Chairperson Horsch called the meeting to order at 10:37 A.M. Trustees Flood, Socia, and Horsch were present in person and Trustees Armitage and Gershel were present by teleconference.
2. Approval of Agenda: A motion was made, supported and passed unanimously to approve the Agenda as presented.
3. Approval of Minutes: A motion was made, supported and passed unanimously to approve the Minutes of the meeting of Wednesday, February 14, 2018.
4. Reports of Alerus representatives:

Watch List: In the most recent Alerus quarterly report, Andrew Calogerakis recommended replacing the AllianzGI NFJ Small-Cap Value Instl fund and he provided a written recommendation of two potential replacement funds. Mr. Horsch contacted Mr. Calogerakis with questions and is awaiting a response. A motion was made, supported and passed unanimously to authorize Mr. Horsch to obtain the information he is seeking and then to make an email recommendation for the trustees to consider via an electronic vote.

Email Amendment added 08/22/18: Trustee Horsch spoke with Andrew Calogerakis regarding replacement of PSVIX (AllianzGI NFJ Small-Cap Value Fund Institutional Class) with SLYV (SPDR S&P 600 Small Cap Value ETF). Via email, a motion was made, supported, and passed unanimously to authorize Mr. Horsch to obtain the proper documentation and finalize this replacement.

5. Administrator's Report:
 - a. Ms. Socia reported: a) there have been four loans within the past six months, and the current outstanding loan balance is \$219,000, b) there were two hardship requests in the past six months, totaling \$7,000, c) there were \$300,000 in payouts to former participants who are no longer employed, and d) Alerus will be on site for employee investment counseling before the end of the calendar year.
 - b. Chargeback of Fees of Former Employees: This item was been tabled until the next meeting.
 - c. Increasing Eligibility Threshold to \$5K: Raising the threshold requires an amendment of the fund, the expense of which is not justified at present. It was agreed the Trustees will not pursue this change.

6. Other:

- a. Trustee Armitage sought clarity regarding exactly how fund expense ratios are calculated. Mr. Horsch will seek information from Alerus on the topic.
- b. There was discussion regarding whether it was feasible to change the standing dates of the trustee meetings to avoid systemic conflicts that have occurred. A motion was made, supported and passed unanimously to change the date and time of the trustee meetings going forward to the second Wednesday of February and August at 10:30 A.M.

7. Adjourn: A motion was made, supported and passed unanimously to adjourn. The meeting adjourned at 11:04 A.M.

The next scheduled meeting: Wednesday, February 13, 2019 at 10:30 A.M.

**VI. Client Protection
Fund Claims**

TO: Board of Commissioners
FROM: Professional Standards Committee
DATE: April 12, 2019, BOC Meeting
RE: Client Protection Fund Claims for Consent Agenda

Rule 15 of the Client Protection Fund Rules provides that “claims, proceedings and reports involving claims for reimbursement are confidential until the Board authorizes reimbursement to the claimant.” In order to protect CPF claim information as required in the Rule, and to avoid negative publicity about a lawyer who is subject to a claim, which has been denied and appealed, the CPF Report to the Board of Commissioners is designated “confidential.”

**CONSENT AGENDA
 CLIENT PROTECTION FUND**

Claims recommended for payment:

- a. Consent Agenda

Rec No	Claim No	Amt Recommended
1.	CPF 3258	\$7,500.00
2.	CPF 3286	\$3,200.00
3.	CPF 3301	\$150,000.00
4.	CPF 3413	\$5,000.00
5.	CPF 3434	\$3,000.00
6.	CPF 3445	\$2,250.00
7.	CPF 3479	\$5,500.00
8.	CPF 3482	\$750.00
9.	CPF 3483	\$750.00
10.	CPF 3484	\$960.00
11.	CPF 3486	\$1,750.00
12.	CPF 3514	\$2,050.00
13.	CPF 3516	\$450.00
14.	CPF 3519	\$2,000.00
15.	CPF 3531	\$750.00
	Total	\$185,910.00

- b. Supporting documentation is provided under separate cover.

The Professional Standards Committee recommends payment of the following claims by the State Bar of Michigan Client Protection Fund:

1. CPF 3258 \$ 7,500.00

Claimant retained Respondent to represent her in a criminal matter and paid \$10,000 for the representation. That same day, Respondent agreed to represent Claimant's co-defendant. Claimant and her co-defendant's criminal cases were joined for the pretrial and trial. Without Claimant's knowledge or consent, Respondent paid another attorney \$2,000 to represent Claimant, unilaterally terminating the representation. Four months later, Claimant learned for the first time that the other attorney was representing her. Respondent's failure to return the unearned portion of the fee constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1), 9(D)(6), and 11(B).

2. CPF 3286 \$ 3,200.00

Claimant and his wife retained Respondent to file a new Chapter 13 bankruptcy petition for a flat fee of \$3,200 after their prior petition was dismissed because Respondent failed to correct deficiencies. Respondent filed the new petition on Claimants' behalf, but failed to file the proposed Chapter 13 Plan and modified schedules. Claimants retained new counsel, who had to file a new Petition to protect their interests. Respondent's failure to complete the legal services or to return the unearned flat fee constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1), 9(D)(6), and 11(B).

3. CPF 3301 \$150,000.00

Respondent was appointed successor Trustee and remained in that capacity until his death. During his tenure, Respondent received checks issued against the Trust for trustee fees totaling \$165,302.25, which were deemed unearned. Respondent also failed to repay a \$6,000 loan from the Trust. Respondent's wife surrendered gold coins which were sold for \$18,100 reducing Claimant's loss to \$153,202.25. Respondent's failure to return the unearned fees and repay the loan constitutes dishonest conduct and is a reimbursable loss pursuant to CPF Rules 9(C)(1), 9(D)(6), and 12(B).

4. CPF 3413 \$ 5,000.00

Claimant retained Respondent to assist with an estate and paid a flat fee of \$5,000. Respondent did not provide any legal services or return the unearned fees and unspent costs, which constitutes dishonest conduct and is a reimbursable loss under CPF Rules 9(C)(1), 9(D)(6), and 11(B).

5. CPF 3434 \$ 3,000.00

Claimant retained Respondent to represent her in a divorce matter for a flat fee of \$3,000. There is no retainer agreement outlining when the fee is earned and whether the fee is refundable. Therefore, the fee is unearned and must be placed in the lawyer's trust account.¹ Respondent appeared at a hearing and a status conference, during which she was ordered to file an amended complaint. Respondent did not file the amended complaint, so the case was dismissed and Claimant must refile. Respondent has not returned Claimant's original documents or refunded the unearned fees, which constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1), 9(D)(6), and 11(B).

¹ See Informal Opinion RI-069.

6. CPF 3445 **\$ 2,250.00**

Claimant retained Respondent to assist her in creating an estate plan and to file for VA benefits on behalf of her ailing mother. Per the Representation Agreement, Respondent agreed to complete the estate plan for a flat fee of \$2,250, plus costs. For services related to the settling of Claimant's spouse's estate, Respondent was to receive \$95 per hour. Respondent provided a draft will for both Claimant and her mother, but failed to finalize the document or provide the requested durable powers of attorney and trust documents. Thus, Claimant retained new counsel to draft the estate planning documents. Respondent's failure to complete the legal services or return the unearned flat fee is dishonest conduct and a reimbursable loss as provided by CPF Rules 9(C)(1), 9(D)(6), and 11(B).

7. CPF 3479 **\$ 5,500.00**

Claimant retained Respondent to defend him in a lawsuit and file a countersuit and paid \$5,000 from the account of A&G Restoration, LLC for the representation. Respondent appeared on Claimant's behalf; filed a motion for summary disposition, which resulted in sanctions against Claimant for filing a frivolous motion; and filed an answer, affirmative defenses, and counterclaim. Respondent lied about the amount of sanctions and Claimant remitted \$1,500 to pay the sanctions, but only \$1,000 was transmitted to opposing counsel. Claimant terminated the representation. Respondent's misrepresentation of the amount of sanctions, misappropriation of the funds received to pay sanctions, and failure to refund the unearned fee constitutes dishonest conduct and is a reimbursable loss under CPF Rules 9(C)(1), 9(D)(6), and 11(B).

8. CPF 3482 **\$ 750.00**

Claimant retained Respondent to file a bankruptcy petition for a flat fee of \$750. The Bankruptcy Attorney Fee Agreement states that the \$750 fee is nonrefundable once work begins on the file. Non-refundable retainers are ethically permissible if the fee agreement is unambiguous. *Grievance Adm'r v Cooper*, 482 Mich 1079 (2008). The fee agreement does not address the premature termination of the representation by the attorney prior to completion of the agreed upon legal services. Respondent did not complete any legal services, so the nonrefundable fee may be deemed unreasonable or excessive contrary to MPRC 1.5(a). Respondent did not file the petition, begin work, or engage in the appropriate advance planning measures to ensure that funds were available to provide a refund to Claimant after his death. Respondent's failure to reimburse the \$750 constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1) and 9(D)(6).

9. CPF 3483 **\$ 750.00**

Claimant retained Respondent to file a bankruptcy petition for a flat fee of \$750. The Bankruptcy Attorney Fee Agreement states that \$750 fee is nonrefundable once work begins on the file. Non-refundable retainers are ethically permissible as long as the fee agreement is unambiguous. *Grievance Adm'r v Cooper*, 482 Mich 1079 (2008). The fee agreement does not address the premature termination of the representation by the attorney prior to completion of the agreed upon legal services. Since Respondent did not complete any legal services, the nonrefundable flat fee may be deemed unreasonable or excessive contrary to MPRC 1.5(a). Respondent did not file the petition, begin work, or engage in the appropriate advance planning measures to ensure that funds were available to provide a refund to Claimant after his death. Respondent's failure to reimburse the \$750 constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1) and 9(D)(6).

10. CPF 3484 **\$ 960.00**

Claimant retained Respondent to file a bankruptcy petition and paid Respondent \$960 towards the agreed upon fee of \$1,500. The Bankruptcy Attorney Fee Agreement states that \$1,500 fee is nonrefundable once work begins on the file. Non-refundable retainers are ethically permissible as long as the fee agreement is unambiguous. *Grievance Adm'r v Cooper*, 482 Mich 1079 (2008)). The fee agreement does not address the premature termination of the representation by the attorney prior to providing any legal services. Since Respondent failed to complete any legal services, the nonrefundable flat fee may be deemed unreasonable or excessive contrary to MPRC 1.5(a). Respondent did not file the petition, begin work, or engage in the appropriate advance planning measures to ensure that funds were available to provide a refund to Claimant after his death. Respondent's failure to reimburse the \$960 constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1) and 9(D)(6).

11. CPF 3486 **\$ 1,750.00**

Claimant retained Respondent to probate an estate and draft a quitclaim deed and testamentary trust for a non-refundable flat fee of \$3,500. Respondent completed administration of the estate and drafted the quitclaim deed, but was arrested and his license suspended before he completed the testamentary trust. Based on the work completed prior to his arrest, the Committee determined that Respondent should have refunded 50% of the flat fee or \$1,750 to Claimant. Respondent's failure to refund the unreasonable portion of the flat fee constitutes dishonest conduct and is a reimbursable loss under CPF Rules 9(C)(1), 9(D)(6), and 11(B).

12. CPF 3514 **\$ 2,050.00**

While Respondent was suspended from the practice of law, she held herself out as a licensed attorney and collected \$2,050 in "attorney's fees" from Claimant for representation in two eviction matters. Respondent met with Claimant three times, but could not provide any legal services, and abandoned the matter. Based on Respondent's conduct, Claimant was not unreasonable in believing that Respondent was licensed to practice law. Respondent's failure to return the unearned fees is dishonest conduct and a reimbursable loss as defined by CPF Rules 9(C)(1), 9(D)(6), and 11(B).

13. CPF 3516 **\$ 450.00**

Claimant retained Respondent to represent her in a drivers license restoration and paid \$450 towards the agreed upon flat fee of \$1,200. Respondent did not complete any services prior to his death. Respondent's failure engage in the appropriate advance planning measures to ensure that trust funds were properly safeguarded and available to provide a refund to Claimant after his death constitutes dishonest conduct. Respondent's failure to reimburse the \$450 constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1) and 9(D)(6).

14. CPF 3519 **\$ 2,000.00**

Claimant retained Respondent to represent her in a divorce matter for a flat fee of \$2,000. There is no retainer agreement outlining when the fee is earned and whether the fee is refundable. Therefore, the fee is unearned and must be placed in the lawyer's trust account.² Respondent filed a complaint with the court, but it was not served so the court dismissed the matter. Respondent's failure to return the unearned flat fee constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1), 9(D)(6), and 11(B).

² See Informal Opinion RI-069.

15. CPF 3531

\$ 750.00

Claimant retained Respondent to represent her son in a commutation matter for \$750, but Respondent did not provide any legal services or refund the fee. Respondent's failure to return the unearned fee constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1), 9(D)(6), and 11(B).

Total payments recommended: \$185,910.00

**VII. 50-Year Honoree
Resolution**

50-Year Golden Celebration Resolution

The Board of Commissioners of the State Bar of Michigan extends congratulations to our 50-year honorees for proudly serving our profession since 1969. We thank you for your unfailing loyalty and extraordinary contributions to the welfare of the citizens you serve. Your dedication to the rule of law and commitment to supporting the Constitutions of our nation and state, respecting our courts and judges, and practicing law with integrity, civility and concern for the public are deeply appreciated.

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners of the State Bar of Michigan that honor, recognition and gratitude are bestowed on our honorees for their 50 years of membership in the State Bar of Michigan.

Adopted by the Board of Commissioners.

Dennis M. Barnes, President

**VIII. Section Dues
Amendments –
ADR Section**



Memorandum

To: SBM Board of Commissioners
From: Darin Day
SBM Director of Outreach
Date: March 27, 2019
Re: Alternative Dispute Resolution (ADR) Section – Free Membership for Judges
Staff Recommendation for BOC Approval

Rule 5, Section 1(a)(5) of the Supreme Court Rules Concerning the State Bar of Michigan requires that the Board of Commissioners “...determine the amount and regulate the collection and disbursement of section dues...”

Upon review of the record, it is confirmed that the ADR Section has taken all necessary steps to approve a change to its member dues structure in compliance with the section’s bylaws. The ADR Section has elected to offer free section memberships to judges. Reproduced below are the relevant excerpts from the section’s bylaws and council meeting minutes:

**ARTICLE II
MEMBERSHIP**

SECTION 1. DUES. Section membership dues shall be established by the Council.

ADR SECTION FULL COUNCIL MEETING

Friday, February 8, 2019

Room 2, State Bar of Michigan, Lansing

B. Approval of no dues for sitting Judges. Scott Brinkmeyer moved to approve waiving membership dues for all sitting judges; Judge Milton Mack seconded. Motion carried unanimously.

The section’s proposed change does not conflict with the Supreme Court Rules or the State Bar of Michigan Bylaws. Therefore, it is recommended to the Board of Commissioners that the proposed change be APPROVED.

**IX.-B. Board Officers
Election Procedure,
Matrix, & Timeline**

State Bar of Michigan Board of Commissioners
2019 Timeline for Officer Elections

April 12, 2019	Distribution of materials regarding Timeline, Procedure and Matrix
June 11, 2019	Letters of Intent and completed Matrix due to State Bar President and Executive Director
July 18, 2019	Board book sent to Commissioners that will include the Letters of Intent and Matrices of SBM Officer Candidates
July 26, 2019	Candidate Forum (5 minutes to address Board and (BOC Meeting) 15 minutes total Q & A Election of Officers

Memo

To: Board of Commissioners

From: Officer Election Committee (Bruce Courtade, Chair; Kim Cahill; Francine Cullari; Michael Hohaus; Tony Jenkins; Craig Lubben; Angelique Strong Marks; Debra Walling)

cc: President Tom Cranmer, Janet Welch

Date: June 2006

Re: **RECOMMENDED ELECTION PROCEDURES FOR 2006 AND BEYOND**

The Officer Election Committee (“the Committee”) was initially asked to consider whether, in light of a proposal from the President’s Advisory Council (“the Council”), the rules concerning the election of State Bar officers should be amended. After studying the “Supreme Court Rules Concerning the State Bar of Michigan” (“the Rules”), the Bylaws of the State Bar of Michigan (“the Bylaws”)¹, and discussing their own personal views of and frustrations with the existing process, the Committee recommended that the rules governing elections not be changed, but that the Board of Commissioners (“the Board”) should consider certain procedural and educational changes to add some transparency to the process by which new generations of SBM Officers are selected, and specifically rejected the idea of extending the term limits of the Board or of the “grandfathering” of Officers beyond the level set forth in the existing Rules.

The Committee’s Report was submitted on April 4, 2006, and unanimously adopted by the Board of Commissioners at its April 7 meeting. Thereafter, the Committee was charged with developing recommendations to the Board of specific procedural and educational changes to the election process that would address those concerns raised in the Committee’s April 4, 2006 Report.

Summary of Recommendations

The Committee believes that the Board should adopt three changes to the current system of nominating and electing State Bar officers. Because the Committee does not believe that there is adequate time to implement all of the proposed changes before this year’s elections. Therefore, we propose a “phase-in” as set forth more fully below.

1. All non-incumbent officers who are seeking election to “the Chairs” must submit a letter of interest to the Executive Director and President of the State Bar by a set date each year. After 2006, this deadline will be 45 days before the July Board meeting. However, for this year, letters of interest must be submitted by June 28, 2006 (30 days before the elections at the July 28 Board meeting). Requirements for the letter of interest are set forth more fully below. These letters of interest, along with any attachments thereto and the matrices described in the third recommendation, below, must be submitted to the Board along with the Agenda and meeting materials that are sent to the Board before the meeting in which the elections are held each year.

¹ A copy of relevant sections of the Rules and Bylaws is attached as Exhibit #1.

2. A “candidates’ forum” should take place at the Board meeting in which elections are held each year. The Committee recommends that each candidate be given up to 5 minutes to present his or her qualifications for election. After each of the candidates has spoken, the Committee recommends that a “question and answer” session of at least 15 minutes’ duration be held, with each candidate allowed not more than one minute to answer each question presented by those in attendance at the meeting. This should be implemented beginning in July 2006.
3. For elections beginning in 2007, the Committee, with Staff input, intends to develop a matrix that all non-incumbent candidates for office must fill out and submit along with their letters of interest. The matrix will focus on issues such as: length of service on the Board; prior Board experience (i.e., leadership roles or projects undertaken for the Bar); attendance at Board and committee meetings; etc. The matrices for all candidates shall be submitted to the Board at or before the meeting in which the officer elections take place.

The Committee believes that these procedural rules may be adopted by the Board without need for amending the Bylaws.

Discussion

The Committee met via teleconference after the last Board meeting. A number of suggestions for how to make the election process more transparent and meaningful were discussed. One suggestion that had been raised in the initial Committee Report (the use of a nominating committee) was discussed at length. After considering the benefits and disadvantages of that option, the Committee decided not to recommend the adoption of a nominating committee at this time. Rather, the Committee believes that the proposals set forth below all would have a more positive impact than use of a nominating committee process, and are less fraught with potential risks experienced by many groups that use a nominating committee.

Therefore, the Committee decided to recommend the adoption of three specific changes to the manner in which officer elections are handled, and to wait to see whether those proposals sufficiently address the issues raised in the Committee’s prior Report. If necessary, the issue of using a nominating committee can be re-evaluated if it is determined that the proposals set forth below have failed to adequately address Board concerns about the election process.

1. Recommendation #1: Letters of Interest.

One of the issues raised by the Board and in the Committee meetings was the impression that the current election process gives the impression that the officer elections are a *fait accompli* after *sub rosa* discussions eliminate candidates who might be interested, leaving a single candidate about whose qualifications many voting Board members may know little or nothing.² The Committee believes that this issue can be easily remedied by requiring all persons interesting in seeking office to submit a simple letter of interest identifying the office to which they seek election and highlighting their abilities, background and experience that they feel qualify them for that role within the organization.

² This Report’s drafter apologizes to the Plain English Committee for a wordy sentence involving two italicized foreign terms.

a. Letters of Interest for Election as Treasurer.

Therefore, the Committee recommends adoption of a rule or policy that all non-incumbent officers who are seeking election to office of State Bar Treasurer (and therefore entry into “the Chairs”) must submit a letter of interest to the Executive Director and President of the State Bar by a set date each year. After 2006, this deadline will be 45 days before the July Board meeting. However, for this year, letters of interest must be submitted by June 28, 2006 (30 days before the elections at the July 28 Board meeting). Requirements for the letter of interest are set forth more fully below. These letters of interest, along with any attachments thereto and the matrices described in the third recommendation, below, must be submitted to the Board along with the Agenda and meeting materials that are sent to the Board before the meeting in which the elections are held each year.

b. Letters of Interest by Incumbent Officers for Positions Other than Treasurer.

The Committee is aware that, over time, an informal but widely-acknowledged pattern has led to a *de facto* practice that a Commissioner who is elected Treasurer generally embarks on a six-year procession through “the Chairs” culminating with his or her year as president.³ Therefore, under most circumstances, incumbent officers seeking to ascend to the next level of “the chairs” will not need to submit a letter of interest for that position: absent an expression of interest to the contrary, officers will be presumed to seek elevation to the next level of “the Chairs.”

However, under the Rules, the only officers who automatically ascend “the Chairs” without standing for election to the next level each year are the vice-president and president-elect. Therefore, it is possible that a sitting secretary or treasurer might either decide not to seek elevation in the chairs during a given year, or face a challenge from a Board member who is not an officer. Theoretically, a sitting treasurer could also opt to bypass his or her year as secretary and run for the office of vice-president.

Thus, the Committee recommends that if any candidate, in compliance with the 45-day deadline set forth above,⁴ submits a letter of interest seeking election to a position in “the Chairs” other than as Treasurer and/or outside of the normal six-year progression, the President shall notify the incumbent officer who would normally be seeking elevation to the now-contested seat in writing of the possibility of a disputed election. That incumbent officer must then prepare and submit to the SBM’s Executive Director and President his or her own letter of interest⁵ by not later than 30 days before the SBM meeting at which the election is to be held. (For 2006, the deadline for submitting an incumbent officer’s letter of interest will be July 15).

c. Minimal Requirements for Letters of Interest.

Each potential candidate is responsible for including in his or her information that he or she believes is sufficient to convince other Board members that the candidate is qualified to serve in whatever office he or she seeks. However, *at a minimum*, the letters of interest should include the following information:

- The office sought;
- A summary of the candidate’s history on the Board of Commissioners;

³ Year One: Stand for election as Treasurer
Year Two: Serve as Treasurer; seek election as Secretary
Year Three: Serve as Secretary; seek election as Vice President
Year Four: Serve as Vice President
Year Five: At conclusion of Vice President, ascend to President-Elect
Year Six: Serve as SBM President

⁴ June 28, 2006 for the 2006 elections.

⁵ And, for elections occurring after 2006, a Qualifications Matrix as discussed below.

- A discussion of the candidate's attendance at and participation in Board and Committee meetings;
- A summary of the candidate's service to the State Bar and (if applicable) local bar associations;
- An overview of the candidate's non-Bar-related experience of community service; and
- A statement, not exceeding 250 words, of why the candidate wants to attain the position for which he or she is seeking election, and what unique ideas or thoughts the candidate has for ways in which to improve the SBM.

All candidates must also include a copy of their résumé or curriculum vitae with their letter of interest.

d. Presentation of Letters of Interest to the Board.

The candidates' letters of interest, along with any attachments thereto and the matrices described below, must be submitted to the Board along with the Agenda and meeting materials that are sent to the Board before the meeting in which the elections are held each year.

2. Recommendation #2: Candidates' Forum.

In addition to general comments regarding the lack of knowledge of which Board members might be interested in running for office, the Committee heard and received comments from several people suggesting frustration with the lack of opportunity to talk to the candidates about the strengths that they would bring to office if elected. We believe that this concern could be easily ameliorated by having all candidates for contested elections participate in a "Candidates' Forum" held as part of the Board meeting at which elections are held (including meetings at which elections are held to fill vacancies in SBM offices that occur outside the normal election cycle).

The Committee recommends that each candidate for each contested election be given up to 5 minutes to present his or her qualifications for election. After each of the candidates has spoken, the Committee recommends that a "question and answer" session of at least 15 minutes' duration be held, with each candidate allowed not more than one minute to answer each question presented by those in attendance at the meeting. This should be implemented beginning in July 2006.

3. Recommendation #3: Qualifications Matrix.

Another method of assuring that the Board has adequate and useful information concerning the candidates' qualifications and abilities would be the use of a matrix to provide an objective overview of data regarding their past experience. The Committee discussed at length what kinds of information should be included in any such matrix. Among the suggestions were:

- Law School and date of graduation;
- Year of admission to Michigan Bar;
- Primary areas of practice;
- Past Bar service (state and local);
- Board of Commissioners' experience:
 - Year first elected or appointed;
 - Number of terms on the Board; and
 - Board Committees.
- Attendance at Board meetings during last three years;
- Non-Board, non-Bar volunteer experience.

Once completed by each candidate, the matrix must be submitted to the SBM President and Executive Director along with the letter of interest discussed above. The Executive Director shall then

delegate to appropriate staff the duty to verify that the information regarding Board attendance and experience is correct.

The Committee did not have time to develop a matrix before the 2006 SBM Officer elections. However, for elections beginning in 2007, the Committee, with Staff input, intends to develop a matrix that all non-incumbent candidates for office must fill out and submit along with their letters of interest. The matrix will focus on issues such as: length of service on the Board; prior Board experience (i.e., leadership roles or projects undertaken for the Bar); attendance at Board and committee meetings; etc. The matrices for all candidates shall be submitted to the Board at or before the meeting in which the officer elections take place.

4. The Committee's Proposals Do Not Appear To Require Changes To The Supreme Court Rules Or To The State Bar's Bylaws.

Other than the previously-discussed prohibition on a Secretary or Treasurer serving more than three consecutive terms found in §8 and §11's term limits, the SBM Bylaws are silent regarding the procedure for electing officers. Similarly, the Supreme Court Rules Governing the State Bar of Michigan offer no guidance as to the mechanics of how to elect officers.⁶

In the absence of any Supreme Court Rule on point, the Committee believes that the Board is given the authority, pursuant to Rule 5, to adopt the proposals suggested herein. That Rule provides, in pertinent part:

Section 1 – Powers, Functions, and Duties.

(a) The Board of Commissioners shall

* * *

(6) receive and review committee and section reports and recommendations proposing action by the board and take interim or final action that the board finds feasible, in the public interest, and germane to the functions and purposes of the State Bar; ...

The Committee proposals are in the public interest and germane to the functions of the State Bar. The public interest is promoted by assuring that State Bar officers, who bear more responsibility for the day-to-day and long-term operations of the Bar than any other members of the Board, are chosen in a manner that reflects openness and learned decision-making. Assuring that members of the Board who are asked to select the officers are well-informed as to their character and abilities likewise has a direct and substantial influence on the functions and purposes of the Bar.

CONCLUSION

The Committee's proposals offer simple but effective tools to address the concerns that Board members do not know enough about the election process or the individuals who seek election to "the Chairs." The Committee therefore requests that the Board adopt and implement the Proposals in accordance with the timelines set forth above.

⁶ Rule 7 provides, in part, that the Board shall elect certain officers, states when they must be elected, and explains that officer vacancies shall be filled by an election of the Board. However, the Rule provides no specific requirement regarding how the elections are to be carried out.

STATE BAR OF MICHIGAN OFFICER CANDIDATE FORM

(TO BE COMPLETED BY CANDIDATE – PLEASE ATTACH EXTRA SHEETS IF NECESSARY TO COMPLETE YOUR RESPONSES)

NAME			
OFFICE SOUGHT			
EMPLOYER			
TITLE & PRIMARY PRACTICE AREA			
SECTION 1: Educational Background			
1. Undergraduate school(s)			
2. Years of attendance or graduation			
3. Degree(s)			
4. Law School			
5. Year of Graduation			
SECTION 2: Bar Admission			
1. State(s) admitted to practice; year of admission for each			
SECTION 3: State Bar of Michigan Activities			
Board of Commissioners			
1. Year First Elected/Appointed			
2. Years served (i.e., 2000 – 2003)			
3. Leadership activities (year) <u>Example:</u> Treasurer (2006-2007)			
4. Date current term expires			
5. Eligible for Re-Election?			
Representative Assembly			
1. Year First Elected/Appointed			
2. Years served (i.e., 2000 – 2003)			
3. Leadership activities (year) <u>Example:</u> Clerk (2006-2007)			
Sections/Committees			
1. What Sections or Committees of the State Bar of Michigan do you belong to?			
2. Please describe briefly any leadership roles you have filled on these Sections or committees			

Name: _____

Candidate for: _____

SECTION 4: Other Bar Activities	
1. To which national, local or affinity bar associations do you belong? (For each, please state the date on which you became a member).	
2. What leadership roles have you performed for each?	
SECTION 5: Non-Bar Activities	
1. On what other for-profit or non-profit Boards, groups or organizations have you served? (For each, please state the date on which you became a member).	
2. Please describe briefly any leadership roles you have filled on these Boards.	
SECTION 6: Other Achievements of Note	
SECTION 7: Publications	
1. Have you written any articles, commentaries, or books that have been published? If so,	
2. Provide titles, publishers and dates of publication for each such published piece.	

ACKNOWLEDGEMENT AND CERTIFICATION

I hereby acknowledge and certify that the foregoing information is true to the best of my knowledge and belief.

Candidate Signature

Date: _____

+++++
Verification of Candidate's Attendance at State Bar Board of Commissioners' Meetings (To be Completed by State Bar Staff)

In the past three (3) years, how many meetings of the State Bar Board of Commissioners has the candidate been eligible to attend?	
Of the meetings identified above, how many meetings of the State Bar Board of Commissioners has the candidate actually attended?	
Percentage of attendance at Board of Commissioners meetings (past three years)	

ACKNOWLEDGEMENT AND CERTIFICATION

I hereby acknowledge and certify that the foregoing information is true to the best of my knowledge and belief.

State Bar of Michigan Staff Signature

Date: _____

**X. - B. FY 2020 Budget
Process, Roles, and
Calendar**

FY 2020 Budget Process, Roles, and Calendar

FY 2020 Budget Process

The starting point for the FY 2020 budget will be an initial list of key budget assumptions along with high-level financial projections prepared by staff. The initial key budget assumptions will: 1) assume there is no dues increase or decrease; 2) establish the amount of percentage increases for salaries, benefits and non-labor expenses; 3) identify known increases or decreases in expenses, revenues and staffing; and 4) identify initiatives to address the strategic plan priorities for FY 2020.

The Officers, Finance Committee and BOC will review the key budget assumptions and modify as needed. Staff will then prepare the preliminary detailed budget based on the key budget assumptions. The Officers, Finance Committee, and BOC will review the preliminary budget at the June BOC meeting and provide feedback, taking into account the strategic plan priorities. In early July, the Finance Committee will review the budget and provide feedback. After further refinement, staff will then prepare the proposed FY 2020 budget for review and final approval at the BOC meeting on July 26, 2019.

Budget Roles for Officers, Finance Committee, Staff, and Board of Commissioners

The Officers (who are also the Board Committee Chairs and Steering Committee Chairs) will serve as the “Cross Functional Budget Committee.” Their role is to validate the key budget assumptions, make final policy recommendations on what is funded and what is not, and ensure alignment of the proposed budget with the strategic plan priorities for FY 2020.

The role of the Finance Committee is to review the key assumptions, review the financial impact of the proposed budget, assess the reasonableness of the revenue and cost projections, assure the budget is consistent with the financial reserve margin policy, and review the budget in detail with staff. The Finance Committee meets in early July with staff (SMT) to review the proposed line item budget in detail.

The role of the staff is to prepare the key budget assumptions for review and approval, prepare the preliminary and proposed budgets for review and approval, provide supporting information as requested, answer questions, and make changes to the budget consistent with the recommendations of the Officers, Finance Committee, and BOC.

The role of the Board of Commissioners is to review the key budget assumptions and preliminary and proposed budgets, ask questions, make sure the budget is consistent with the strategic plan priorities of the SBM, and approve the proposed budget or amend it as required.

FY 2020 Budget Calendar

March 2019

- Senior Management Team meets individually with the Executive Director to review their area's FY 2019 financial forecast and FY 2020 key budget issues (staffing changes, major projects, strategic plan priorities, and major revenue/expense changes).

April 2019

- Staff reviews the proposed budget process and calendar with the Executive Committee.
- Staff reviews the proposed budget process and calendar at the BOC meeting on April 12, 2019.
- Staff prepares an initial list of key budget assumptions, staffing projections, major expense and revenue changes anticipated, and any issues that need addressing based upon strategic planning priorities.
- Staff informs committees and other interested groups of the SBM budget process and calendar.
- Staff begins preparation of the preliminary budget (Finance staff to supply budget worksheets).

May 2019

- Staff reviews the key budget assumptions and preliminary budget projection with the Officers who act as the "Cross Functional Budget Committee" (via conference call).
- Staff reviews the key budget assumptions and preliminary budget projection with the Executive Committee and Finance Committee (via conference call).
- Staff makes adjustments to the key budget assumptions and preliminary budget projection as needed.
- Staff completes preliminary budget worksheets

June 2019

- Staff reviews the key budget assumptions and preliminary budget with the Board of Commissioners at the BOC meeting on June 14, 2019.
- Based on input from the June BOC meeting, including confirmation of the strategic planning priorities for FY 2020, staff revises the key budget assumptions and prepares the proposed budget.

July 2019

- Staff reviews the proposed budget in detail with the Finance Committee (via a face-to-face meeting) in early July 2019.
- Staff reviews the proposed budget with the Officers who act as the “Cross Functional Budget Committee” (via conference call).
- Staff reviews the proposed budget with the Executive Committee (via the regularly scheduled conference call).
- Staff modifies the final proposed budget based on the previous reviews, and presents the proposed budget to the BOC for approval at the BOC meeting on July 26, 2019.

By September 1, 2019 – Staff publishes the final approved FY 2020 budget.

CALENDAR
STATE BAR OF MICHIGAN REPRESENTATIVE ASSEMBLY
SATURDAY, APRIL 13, 2019

Lansing Community College – West Campus, M-TEC Center
5708 Cornerstone, Lansing, Michigan 48917

*Denotes Action Items

Continental Breakfast will be available beginning at 8:30 a.m.

8:45 a.m. – 9:15 a.m. New Member Orientation

9:30 A.M. MEETING BEGINS

9:30 a.m. 1. Introductory Matters

A. Call to order by Chair Richard L. Cunningham with Parliamentarian Hon. John M. Chmura

Mr. Richard L. Cunningham
[Michigan Dept. of Attorney General, 3030 W. Grand Blvd., Ste. 10-352, Detroit, MI 48202-6030
phone: (313) 456-0204; email: cunninghamR3@michigan.org]

Hon. John M. Chmura
[37th District Court, 8300 Common Rd., # 104, Warren, MI 48093
phone: (586) 574-4925; email: jchmura@37thdistrictcourt.org]

B. Certification that a quorum is present by Assembly Clerk, Ms. Chelsea M. Rebeck
[Rebeck & Allen, 20750 Civic Center Dr., Ste. 180, Southfield, MI 48076
phone: (248) 636-2222; email: chelsca@rebecklaw.com]

C. Adoption of proposed calendar by Rules & Calendar Chair, Ms. Jennifer A. Frost
[Jennifer A. Frost, Attorney & Counselor at Law, PLLC, 204 E. Church St., Ste. 203, Adrian, MI 49221
phone: (517) 920-2883; email: jennifer@jafrostlaw.com]

D. Approval of the September 27, 2018 Summary of Proceedings

9:35 a.m. 2. *Filling Vacancies

Hon. Michael C. Brown
Chair, Assembly Nominating & Awards Committee
[First District Court, 106 E. 1st St., Monroe, MI 48161
phone: (734) 240-7125; email: michael_brown@monroemi.org]

9:40 a.m. 3. *Approval of 2019 Award Recipients

Hon. Michael C. Brown
Chair, Assembly Nominating & Awards Committee
[First District Court, 106 E. 1st St., Monroe, MI 48161
phone: (734) 240-7125; email: michael_brown@monroemi.org]

9:50 a.m. 4. Chair's Report

Mr. Richard L. Cunningham
[Michigan Dept. of Attorney General, 3030 W. Grand Blvd., Ste. 10-352, Detroit, MI 48202-6030
phone: (313) 456-0204; email: cunninghamR3@michigan.org]

- 10:00 a.m. 5. Update on *Fleck v. Wetch*
Ms. Janet K. Welch, Executive Director
[State Bar of Michigan, 306 Townsend St., Lansing, MI 48933
phone: (517) 346-6327; email: jwelch@michbar.org]
- 10:10 a.m. 6. Update on State Bar Operation, Structure, and Governance Task Force
Mr. Richard L. Cunningham, Chair
[Michigan Dept. of Attorney General, 3030 W. Grand Blvd., Ste. 10-352, Detroit, MI 48202
phone: (313) 456-0204; email: cunninghamr3@michigan.gov]

Ms. Jennifer M. Grieco, President
[Neuman Anderson Grieco McKenney, PC, 401 S. Old Woodward Ave., Ste. 460,
Birmingham, MI 48009
phone: (248) 594-5252; email: jgrieco@nagmlaw.com]
- 11:10 a.m. 7. BREAK
- 11:20 a.m. 8. *Consideration of Interim Administrator Proposal
Proponents:
Mr. Michael H. Dettmer, Receivership Workgroup Member
[Dettmer Law Office, PLC, 7003 Leorie Dr., Traverse City, MI 49686-1755
phone: (231) 590-5560; email: mike@dettmerlaw.com]

Ms. Alecia Ruswinckel, Assistant Division Director, Professional Standards
[State Bar of Michigan, 306 Townsend St., Lansing, MI 48933
phone: (517) 346-6328; email: amruswinckel@michbar.org]
- 11:40 a.m. 9. *Consideration of Proposed Addition of Rule 8.128 of the Michigan Court Rules
Proponents:
Mr. Joshua A. Blanchard, Criminal Law Section Chair
[Blanchard Law, 309 S. Lafayette St., Ste 208, Greenville, MI 48838-1991
phone: (616) 773-2945; email: josh@blanchard.law]

Mr. Bernard A. Jocuns
[Bernard A. Jocuns & Associates, PLLC, 385 W. Nepessing St., Lapeer, MI 48446-2105
phone: (810) 245-8900; email: bernard@bernardjocuns.org]
- 12:00 p.m. 10. Adjournment

**ATTENDANCE FORMS ARE CIRCULATED AND COLLECTED AT THE
CONCLUSION OF THE MEETING**

Parliamentary Procedures At A Glance

To Do This: (1)	You Say This:	May You Interrupt Speaker?	Must You Be Seconded?	Is the Motion Debatable?	Is the Motion Amendable?	What Vote Is Required?
Adjourn the meeting (before all business is complete)	"I move that we 'adjournn."	May not interrupt speaker	Must be seconded	Not debatable	Not amendable	Majority vote
Recess the meeting	"I move that we recess 'until..."	May not interrupt speaker	Must be seconded	Not debatable	Amendable	Majority vote
Complain about noise, room temperature, etc.	"Point of privilege."	May interrupt speaker	No second needed	Not debatable (2)	Not amendable	None (3)
Suspend further consideration of something	"I move we table it."	May not interrupt speaker	Must be seconded	Not debatable	Not amendable	Majority vote
End debate	"I move the previous 'question."	May not interrupt speaker	Must be seconded	Not debatable	Not amendable	Two-thirds vote
Postpone consideration of something	"I move we postpone 'this matter until..."	May not interrupt speaker	Must be seconded	Debatable	Amendable	Majority vote
Have something studied further	"I move we refer this 'matter to a committee."	May not interrupt speaker	Must be seconded	Debatable	Amendable	Majority vote
Amend a motion	"I move that this motion 'be amended by..."	May not interrupt speaker	Must be seconded	Debatable	Amendable	Majority vote
Introduce business (a primary motion)	"I move that..."	May not interrupt speaker	Must be seconded	Debatable	Amendable	Majority vote

Notes

1. These motions or points are listed in established order of precedence. When any one of them is pending, you may not introduce another that's listed below it. But you may introduce another that's listed above it
2. In this case, any resulting motion is debatable.
3. Chair decides.

Parliamentary Procedures At A Glance (continued)

To Do This: (4)	You Say This:	May You Interrupt Speaker?	Must You Be Seconded?	Is the Motion Debatable?	Is the Motion Amendable?	What Vote Is Required?
Object to procedure or to a personal affront	"Point of order."	May interrupt the speaker	No second needed	Not debatable	Not amendable	None (3)
Request information	"Point of information."	If urgent, may interrupt speaker	No second needed	Not debatable	Not amendable	None
Ask for a vote by actual count to verify a voice count	"I call for a division of the house."	May not interrupt speaker (5)	No second needed	Not debatable	Not amendable	None unless someone objects (6)
Object to considering some undiplomatic or improper matter	"I object to consideration of this question."	May interrupt speaker	No second needed	Not debatable	Not amendable	Two-thirds vote required
Take up a matter previously tabled	"I move we take from the table..."	May not interrupt speaker	Must be seconded	Not debatable	Not amendable	Majority required
Reconsider something already disposed of	"I move we now (or later) reconsider our action relative to..."	May interrupt speaker	Must be seconded	Debatable if original motion is debatable	Not amendable	Majority required
Consider something out of its scheduled order	"I move we suspend the rules and consider..."	May not interrupt speaker	Must be seconded	Not debatable	Not amendable	Two-thirds vote required
Vote on a ruling by the chair	"I appeal the chair's decision."	May interrupt speaker	Must be seconded	Debatable	Not amendable	Majority in the negative required to reverse chair's decision

Notes

4. The motions, points and proposals have no established order of precedence. Any of them may be introduced at any time except when the meeting is considering one of the top three matters listed in the chart (motion to adjourn, motion to recess, point of privilege).
5. But division must be called for before another motion is started.
6. Then majority vote is required.

XVI. - A. 2019
John W. Cumiskey
Award



Memorandum

To: State Bar of Michigan Board of Commissioners
From: Ashley Lowe, Access to Justice Committee Chair
Date: March 29, 2019
Re: 2019 John W. Cummiskey Nominee—Kimberly Scott

The Access to Justice Committee requests that the State Bar of Michigan Board of Commissioners support its recommendation that Kim Scott receive the 2019 John W. Cummiskey Award. Kim's longstanding commitment to pro bono service made her a standout among the other impressive nominees for this year's award. A summary of the full slate of nominees for the 2019 Cummiskey Award is attached, as well as the nomination materials submitted on Kim's behalf.

Kim is a principal in Miller Canfield's Litigation and Dispute Resolution group. Kim is not only a superior trial lawyer who focuses on complex "bet the company" litigation, but has also made significant contributions to pro bono. One case in particular has had literal life-or-death consequences.

For more than a year, Kim has worked on the widely publicized *Hamama v. Adducci* case, on a pro bono basis, in partnership with the ACLU and ACLU of Michigan. The case impacted more than 1,400 Iraqi nationals who had been living in the United States for years, and in some cases decades, in southeast Michigan. These individuals had been issued orders many years ago to remove them to Iraq, but Iraq refused their repatriation. The individuals lived in the community, abiding by the law and complying with the conditions of their immigration supervision. In June 2017, the government arrested more than 200 individuals without warning to deport them to Iraq. By November, more than 300 individuals had been detained.

Miller Canfield got a call from the ACLU asking for assistance, and within days, Kim, the ACLU, and Miller Canfield's pro bono team pulled together a temporary restraining order to halt the deportations, saying that the Iraqis, many who are Chaldean (Catholic), Kurdish, and other religious and ethnic minorities, would face almost certain persecution, torture, and possibly death if they were sent back to Iraq, a country that ranks as one of the six most dangerous countries in the world for minorities. Kim and the ACLU legal team asked the court to allow the Iraqis time to file individual hearings in immigration court so that each case could be evaluated, and the danger could be weighed along with the individual circumstances of each of the immigrants.

While the case is still moving through the courts and being appealed in the Sixth Circuit, four other cases around the country are using *Hamama v. Adducci* as a model where there are concerns about immigrants who have lived in the United States for many years with extended orders of supervision who now face being returned to their countries of origin, where they face torture and persecution.

There were six impressive nominees for the 2019 John W. Cumiskey Award. The ATJ Committee formed a subcommittee to thoroughly review the nomination materials and recommend a winner for the award to the full membership of the ATJ Committee. At its March 27, 2019 meeting, the ATJ Committee members in attendance unanimously voted to adopt the subcommittee's recommendation that Kim Scott receive this year's award.

Therefore, we ask that the State Bar of Michigan Board of Commissioners support its recommendation that Kim Scott receive the 2019 John W. Cumiskey Award.

**State Bar of Michigan
Access to Justice Committee
2019 John W. Cummiskey Award
Summary of Nominations**

Award Criteria

The purpose of this award is to foster awareness of the need for involvement of the private bar in delivering legal services to the poor, by giving public recognition each year to a Michigan lawyer who has made a significant pro bono contribution to this effort. The award is established in the name of John W. Cummiskey of Grand Rapids, a leading advocate and activist in the cause of making legal services available to all, without regard to economic status.

	Nominee	Nominator
1	Celeste Dunn	Beatrice M Friedlander
2	Heidi Naasko	Ashley Lowe & Lynda Krupp
3	Kimberly Paulson	Susan Kornfield
4	Jayesh Patel	Pratheep Sevanthinathan
5	Margo Schlanger	Mark West
6	Kim Scott*	Thom Linn

*2018 nomination carried over. (Cummiskey Award nominations are eligible for consideration for two years.)

2019 Cummiskey Award Workgroup Members

There are six nominees for the 2019 Cummiskey Award. The deadline for nominations was Friday, February 15, 2019. The 2019 Cummiskey Award Workgroup was formed by the Access to Justice Committee and consists of:

- Caroline Bermudez-Jomaa, *Legal Aid & Defender Association*
- Ann Routt, *Michigan Advocacy Program*
- Jean-Paul Rudell, *Bay de Noc Law Firm, PC*
- Rachel Renee Suhrbier, *Legal Aid of Western Michigan*

- Robert G. Mathis, *State Bar of Michigan*

Cummiskey Award Nomination for Kimberly Scott

Name of Nominee: Kimberly Scott

Title: Principal

Firm: Miller Canfield

Address: 101 North Main St., 7th Floor, Ann Arbor MI 48104

Phone: 734-668-7696

Fax: 734-747-7147

Email: scott@millercanfield.com

Nominator: Thomas Linn

Title: Chairman Emeritus

Firm: Miller Canfield

Address: 150 W. Jefferson, Suite 2500, Detroit MI 48226

Phone: 313-496-7511

Fax: 313-496-7500

Email: linn@millercanfield.com

Explain clearly how the nominated individual made pro bono contributions in Michigan, in terms of:

Cases handled:

Kimberly Scott, a principal in our firm's Litigation and Dispute Resolution group, is not only a superior trial lawyer who focuses on complex "bet the company" litigation but has also made significant contributions to pro bono. One case in particular has had literal life-or-death consequences. We are proud to nominate her for your consideration for the John W. Cummiskey Pro Bono Award.

During the past year, Kim has worked on the widely publicized *Hamama v. Adducci*, which she has done on a pro bono basis in partnership with the ACLU and ACLU of Michigan. The case will impact some 1,400 Iraqi nationals who had been living in the United States for years and sometimes decades, with the many located in Southeast Michigan. These individuals had orders to remove them to Iraq that had been issued years or even decades ago, but the government could not remove them because Iraq refused their repatriation. The individuals lived in the community, abiding by the law and complying with the conditions of their immigration supervision. In June, the government has arrested more than 200 individuals without warning to deport them to Iraq. By November, more than 300 individuals had been detained.

Our firm got a call from the ACLU, asking for assistance, and within days, Kim, the ACLU and Miller Canfield's pro bono team pulled together a temporary restraining order to halt the deportations, saying that the Iraqis, many who are Chaldean (Catholic), Kurdish and other religious and ethnic minorities, would face almost certain persecution, torture and possibly death if they were sent back to Iraq, a country that ranks as one of the six most dangerous countries in the world for minorities. Kim and the ACLU legal team asked the court to allow the Iraqis time

to file individual hearings in immigration court so that each case could be evaluated, and the danger could be weighed along with the individual circumstances of each of the immigrants.

This case is an example of Kim's exceptional skill and dedication to delivering pro bono service. It is far-reaching and complex, in that there are several issues at play at the same time: extraordinary factual circumstances applied to novel questions of immigration and Constitutional law. Normally this complex a case would take years to work through the courts. To date, it has been moving at a breakneck pace, and in seven months, Kim and the team were successful in halting the immediate deportations, obtaining class certification, and most recently successful in persuading the court that those who are still detained should not be held indefinitely while awaiting their immigration hearings.

While the case is still moving through the courts, and being appealed in the Sixth Circuit, four other cases around the country are using *Hamama v. Adducci* as a model where there are concerns about immigrants who have lived in the United States for many years with extended orders of supervision who know face being returned to their countries of origin, where they face torture and persecution.

As if her work in *Hamama v. Adducci* were not enough to keep any litigator amply busy, Kim also has been involved in another recent pro bono case, which is still in the process of resolution. It's a prisoners' rights case seeking changes to guard's discretionary decisions to order inmates to stand outside in inclement weather. The specific issue at hand seems minimal unless you put yourself in an inmate's position, then becomes a big deal, and it gets to the heart of dignity and humanity.

In this case, Kim's client is an inmate at the Carson City Correctional Facility in rural Michigan. He had been taking classes as part of a 12-step program designed to help inmates transition from prison life to their release to the community. The guards routinely ordered the prisoners to stand outside the building holding the class until the instructor arrived, even though the Michigan Department of Corrections policy allowed the prisoners to arrive within 10 minutes of the start time for the class. One of those occasions was in November 2013 and the prisoners had to wait outside in freezing rain.

Kim's client is in his 50s and suffers from asthma which is triggered by cold weather. The guards expressly ordered the inmates to stand outside. They could not return to their housing unit. He simply had to stand outside in the cold for as long as he was told to do so.

But there is no apparent reason that the students may not be allowed to wait while lined up in the hallway indoors (which they allow at times) or for the prison to announce that the class would start late (as they do for other classes).

The case has the potential to impact every prison in the state, as the case addresses how individual institutional policy interplays with the policies issued by the Michigan Department of Corrections.

It is worth noting that while Kim has worked on these pro bono cases, she has maintained a full workload of billable litigation matters in which she just as tirelessly and zealously advocates for her clients as she does in her pro bono work.

Time spent/expenses incurred on pro bono activities:

During 2017 alone, Kim Scott devoted more than 700 hours to pro bono work.

Encouragement and support of pro bono activities:

Kim's support of pro bono activity is described in the narrative above. In addition to the significant time Kim invests in pro bono work, she is active in the Ann Arbor community and has served in the following civic activities:

- Ann Arbor Summer Festival, Board of Trustees 2009-2017, Chair 2014-2015
- Ann Arbor Art Center, former Board of Director and member of 100th Anniversary Committee
- Leadership Ann Arbor, Class of 2008-2009

Committee or program involvement:

In addition to her significant pro bono work, Kim contributes to the legal community through service on numerous boards and working groups, including:

- American Bar Association, Antitrust Section, Vice-Chair of Trade, Sports and Professional Associations Committee, 2015-present
- American Bar Association, Litigation Section
- Sedona Conference Working Group 1, Electronic Document Retention and Production
- Sports Lawyers Association
- Federal Bar Association, Antitrust Committee Co-Chair, 2015 - present
- Detroit Metropolitan Bar Association
- State Bar of Michigan, Antitrust, Franchising and Trade Regulation Section; Litigation Section; Arts, Communication, Entertainment and Sports Section
- Washtenaw County Bar Association, Federal Practice Section Co-Chair 2013-2015
- Oakland University Paralegal Advisory Board, 2013 - 2016
- Women Lawyers Association of Michigan

Optional list of news, magazine, radio, TV features about nominees' accomplishments

The *Hamama* case has received a considerable amount of media attention, including:

<http://www.latimes.com/nation/la-na-us-iraq-deportations-20170626-story.html>

<https://www.bloomberg.com/news/articles/2017-11-08/travel-ban-agreement-left-1-400-iraqis-in-deportation-limbo>

<https://www.bloomberg.com/news/articles/2018-01-02/hundreds-of-iraqis-held-in-u-s-deserve-bail-hearing-judge-says>

<https://www.law360.com/articles/998233/ice-must-release-300-iraqi-detainees-mich-judge-says>

Kim's full biography is attached.

Letters in support of her nomination are attached.

1

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Services

Litigation and Dispute Resolution
Antitrust and Trade Regulation
Corporate Litigation
Litigation Support Services
eDiscovery and Legal Tech
Services
Intellectual Property
Intellectual Property Litigation
Trade Secrets and Non-
Competes
Trademarks and Brands

Education

Wayne State University Law
School, J.D.
University of Michigan, B.A.

Bar Admissions

Michigan

Court Admissions

U.S. Supreme Court
U.S. District Court
• Eastern District of Michigan
• Western District of Michigan

U.S. Circuit Court
• Sixth Circuit



Kimberly Scott is a specialty litigator whose practice focuses on complex commercial litigation matters and "bet-the-company" litigation that present unique challenges, such as novel issues of procedure or law. Kim counsels clients at all phases of the litigation and helps develop strategy for complicated matters, covering multiple practice areas with an emphasis on intellectual property, antitrust, and commercial torts and business disputes. She has experience working on class action matters and multi-district litigation, and has litigated in courts across the country.

Kim specializes in cases that involve multiple and often nuanced theories of law. Her practice is not limited to one specific industry, but instead focuses on complex litigation strategy and coordination of parties in suits of all sizes. She is known for successfully managing nationwide litigation teams and taking the lead on litigation and trial strategy. Kim is familiar with every phase of complex litigation, and has represented both plaintiffs and defendants in cases ranging in value to 10 figures, including the largest judgment in a commercial dispute in Michigan that resulted in a \$300 million dollar jury verdict and which settled for over \$500 million on the eve of trial in federal court on the antitrust claims.

She has been identified as a Rising Star in Intellectual Property Litigation every year since 2012 by *Michigan Super Lawyers* and was named a Top Lawyer in antitrust law by *DBusiness Magazine* in 2013 and 2014. *Michigan Lawyers Weekly* identified Kim as one of their "Up & Coming Lawyers" in 2009. Kim is also very active in local and national professional associations and is admitted to practice in front of the United States Supreme Court.

Kimberly L. Scott

Representative Matters

Media and Marketing Services Company Antitrust Action

Trial counsel for Valassis Communications, Inc. in its legal battle with News America, Inc., a part of Rupert Murdoch's News Corporation. Obtained \$300 million jury verdict after an eight-week trial in July 2009, the eighth-largest jury verdict in the United States in 2009. As part of a comprehensive settlement--reached three days before the parties were scheduled to begin a second jury trial in Federal Court in Detroit--News America agreed to pay Valassis \$500 million and enter into a 10-year shared mail distribution agreement with Valassis. *Valassis Communications, Inc. v News America Inc.*, Case No. 07-706645 (Wayne County Circuit Court 2007); *Valassis Communications, Inc. v News America Inc.*, Case No. 2:06-cv-10240 (Eastern District of Michigan 2006); *Valassis Communications, Inc. v News America Inc.*, Case No. BC367743, (Los Angeles County Superior Court, California 2007).

Film Production Company Fraud Claims

Fraud claims brought against JT LeRoy aka Laura Albert, fiction writer, resulting in a trial verdict and punitive damages over \$300,000 for the client, a film production company that purchased the rights to Ms. Albert's novel "Sarah." *Antidote Int'l Films, Inc. v. Bloomsbury Publishing*, Case No. 06 Civ.6114 (CJR) (S.D.N.Y. 2007); *Antidote Int'l Films, Inc. v. Underdogs, Inc., Laura Albert a/k/a JT Leory*, Defendants-Appellants, Case No. 07-4451-cv (2nd Cir. 2007).

Antitrust Class Action Litigation

Represented putative class of cranberry growers suing an agricultural cooperative for unfair trade practices and fixing the prices of cranberry concentrate in violation of antitrust and state laws.

Fair Credit Reporting Act Class Action Litigation

Defended against putative class claims brought by consumers under the Fair Credit Reporting Act. The case settled before class certification.

NCAA Antitrust Class Action Litigation

Defended the NCAA against putative class claims brought by student-athletes alleging the NCAA violated the antitrust laws by fixing prices and establishing regulations that resulted in a group boycott in connection with alleged use of student-athlete likenesses in video games.

NCAA Antitrust Class Action Litigation

Defended the NCAA against putative class claims brought by student-athletes alleging that association's scholarship rules violated the antitrust. The court granted the NCAA's motion to dismiss which was affirmed by the Seventh Circuit.

NCAA Antitrust Class Action Litigation

Defended the NCAA against putative class claims brought by student-athletes alleging colleges and universities violated the antitrust laws by fixing prices and establishing scholarship regulations in the sports of football and men's basketball. The case settled while the NCAA's motion to decertify the class was pending.

Law Firm Professional Malpractice Defense

Represented an AmLaw 200 firm in the successful resolution of a legal malpractice action related to a patent infringement lawsuit.

Kimberly L. Scott

Kim has represented a broad range of corporations, partnerships, financial institutions, non-profit organizations, mid-size businesses, international businesses, law firms, governmental entities, trade associations and individuals in antitrust matters, intellectual property disputes, unfair competition matters, class action and multi-district plaintiff and defense matters, and commercial contract disputes in a wide range of industries.

Honors

The Fellows of the American Bar Foundation

Michigan Super Lawyers, Intellectual Property Litigation, Rising Star 2012 - present

Michigan Lawyers Weekly, Leaders in the Law Class of 2018

Best Lawyers in American, Intellectual Property Litigation, 2018

DBusiness Magazine, Top Lawyer, Antitrust Litigation, 2013-2014

Michigan Lawyers Weekly, 2009 Up and Coming Lawyers

Wayne State University Law School, cum laude

Professional Activities

American Bar Association, Antitrust Section, Vice-Chair of Trade, Sports and Professional Associations Committee, 2015-present

American Bar Association, Litigation Section

Sedona Conference Working Group 1, Electronic Document Retention and Production

Sports Lawyers Association

Federal Bar Association, Antitrust Committee Co-Chair, 2015 - present

Detroit Metropolitan Bar Association

State Bar of Michigan, Antitrust, Franchising and Trade Regulation Section; Litigation Section; Arts, Communication, Entertainment and Sports Section

Washtenaw County Bar Association, Federal Practice Section Co-Chair 2013-2015

Oakland University Paralegal Advisory Board, 2013 - 2016

International Legal Technology Association

Women Lawyers Association of Michigan

Kimberly L. Scott

Michigan Supreme Court, Intern for Justice Marilyn Kelly 2005

Civic, Cultural & Social Activities

Ann Arbor Summer Festival, Board of Trustees 2009-2017, Chair 2014-2015

Ann Arbor Art Center, former Board of Director and member of 100th Anniversary Committee

Leadership Ann Arbor, Class of 2008-2009

Speeches

"Get Up, Stand Up: Preparing for Your First Oral Argument," ABA Antitrust Law Civil Practice and Procedure Committee Teleseminar, February 2, 2015

"U.S./Canada Cross-Border Business Torts: Basics and Developments," ABA Section of Antitrust Law International Committee and Business Torts and Civil RICO Committee Teleseminar, January 30, 2015

"Antitrust-Based Shareholder Derivative Suits: Trends and Lessons," ABA Antitrust Section Business Torts and Civil RICO Committee and Corporate Counseling Committee Teleseminar, January 27, 2014

"ESI Protocol 101: A Tale of Two Perceptions," International Legal Technology Association Webinar, January 23, 2014

Publications

"Deportation of 1,000+ Iraqi Nationals Halted by Mich. Judge," (Referenced In), Law360, July 24, 2017

2017 Annual Review of Antitrust Law Developments (Contributing Author), ABA Section of Antitrust (to be published in 2018)

Antitrust Law Developments (8th Ed. 2017) (Contributing Author), ABA Section of Antitrust Law

2015 Annual Review of Antitrust Law Developments (Contributing Author), ABA Section of Antitrust (2016)

2014 Annual Review of Antitrust Law Developments (Contributing Author), ABA Section of Antitrust Law (2015)

"Uniform Pricing Policies: Level Playing Field or Antitrust Activity?" (Co-Author), The Michigan Optometrist, November/December 2014

2013 Annual Review of Antitrust Law Developments (Contributing Author), ABA Section of Antitrust Law (2014)

Business Torts and Unfair Competition, 3rd Edition (Contributing Author), ABA Section of Antitrust Law (2013)

tidBITS (Contributing Author), ABA Section of Antitrust Law Intellectual Property Law Committee (2012-2013) Antitrust Law Developments (7th Ed. 2012) (Contributing Author), ABA Section of Antitrust Law

Kimberly L. Scott

Antitrust Law Developments (7th Ed. 2012) (Contributing Author), ABA Section of Antitrust Law

"High Stakes Sleuthing: Handling Corporate and IP Espionage Matters in the Information Age" (Co-Author), Litigation Strategies for Intellectual Property Cases, 2012 ed., 137-69, Aspatore Books from Thomson Reuters Westlaw

"In e-Discovery, Look Before You Search," Michigan Lawyers Weekly, September 7, 2009

Indirect Purchaser Litigation Handbook (Contributing Author), ABA Section of Antitrust Law (2007)

Articles

Does Your Human Resources Department Understand Antitrust?

2

Founded in 1852
by Sidney Davy Miller

MILLER CANFIELD

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CHINA: Shanghai
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POLAND: Gdynia
Warsaw • Wrocław

February 16, 2018

Mr. Robert Mathis
John W. Cummiskey Pro Bono Award
State Bar of Michigan
306 Townsend St.
Lansing, MI 48933-2012

Re: Nomination of Kimberly Scott

Dear Mr. Mathis,

On behalf of our firm, Miller, Canfield, Paddock and Stone, P.L.C., I enthusiastically nominate my colleague, Kimberly Scott, for the John W. Cummiskey Pro Bono Award. Kim's dedication this past year to providing access to justice to those most in need has been nothing short of extraordinary. Kim's steadfast resolve in this pursuit represents the very best of our profession. She is the embodiment of our commitment as lawyers to protect the Constitution and the rule of law, and I hope you consider this nomination.

By way of background, since June 2017 the firm, working with the ACLU, Professor Margo Schlanger from the University of Michigan Law School, CODE Legal Aid and the Michigan Immigrant Rights Center, has represented several hundred Iraqis in a nationwide habeas class action, *Hamama v. Adducci*. The clients are mostly Chaldean Christians, Kurds and other Iraqi minority immigrants who would likely face persecution if returned to Iraq. These individuals had been living in the United States under orders of supervision, some for decades, with strong ties to their communities. A recent change in foreign policy prompted government efforts to return them to Iraq. Without warning, they were arrested and detained, with a flight scheduled to Bagdad within days.

The Miller Canfield team, led by Kim, along with the other attorneys mentioned above, succeeded in obtaining a TRO and later a nationwide preliminary injunction. The injunction provided time for these individuals to reopen their immigration proceedings and assert that changed conditions in Iraq, including genocide of religious and other minorities, warranted asylum and protection under the Convention Against Torture.

Without the additional time provided by the district court's stay, these individuals would have been removed. Instead, they have shown remarkable success in their immigration cases, demonstrating the strength of their underlying claims. As of October 28, 2017, class members

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

Mr. Robert Mathis

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February 16, 2018

had won 87% of the motions to reopen that had been finally decided within the immigration court system. Also of that date, all of the cases decided on the merits granted some form of immigration relief and/or protection.

Thanks in large part to Kim's work, Judge Goldsmith also recently ruled that the roughly 300 class members in immigration detention deserve bond hearings and should not be confined indefinitely while their immigration process continues. They should be given the opportunity to show that they are not a danger or flight risk. His words in granting the Petitioners' motion were powerful:

Our legal tradition rejects warehousing human beings while their legal rights are being determined, without the opportunity to persuade a judge that the norm of monitored freedom should be followed....the principle illustrates our Nation's historic commitment to individual human dignity—a core value that the Constitution protects by preserving liberty through the due process of law.

Since this ruling, we know 182 class members have completed bond hearings. Of these, 119 members were granted release on bond, with 21 on their own recognizance.

Judge Goldsmith also certified the nationwide class. Among the many attorneys proposed as class counsel, Judge Goldsmith appointed Kim, along with Professor Schlanger, as lead. While others have since been added, the Judge's initial appointment of Kim is a testament to her hard work, commitment, and proven capabilities in this litigation.

In addition to the extensive work Kim has provided on the *Hamama* case, she also finds time to represent a prisoner in a 42 U.S.C. § 1983 matter. As you can see from his letter included here, her work on that matter is exemplary. Kim treats all of her clients, pro bono or otherwise, with the utmost dignity and the respect that they deserve.

For all of these reasons and more, I recommend Kimberly Scott for the John W. Cummiskey Pro Bono Award without reservation.

Very truly yours,

Miller, Canfield, Paddock and Stone, P.L.C.

By:



Michael P. McGee
Chief Executive Officer

MPM
30749352.3\060856-11606

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Founded in 1852
by Sidney Davy Miller

MILLER CANFIELD

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February 16, 2018

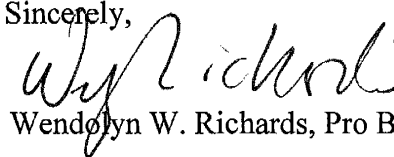
Mr. Robert Mathis
John W. Cummiskey Pro Bono Award
State Bar of Michigan
306 Townsend St.
Lansing, MI 48933-2012

Dear Mr. Mathis,

The undersigned, all current participants of the Miller, Canfield, Paddock and Stone Pro Bono Committee, hereby heartily endorse the nomination of Kimberly Scott as recipient of the 2018 John W. Cummiskey Pro Bono Award. Our CEO Michael McGee's nomination summarizes Kim's significant contribution to access to justice. Kim is a highly accomplished litigator who has been a tireless warrior protecting those in need. We cannot imagine a better and more deserving attorney to earn this distinction.

From our perspective, in honor of the hundreds of pro bono clients she has served, we endorse her nomination without reservation.

Sincerely,



Wendolyn W. Richards, Pro Bono Committee Chair

Miller Canfield Pro Bono Committee

Michael McGee
Andrew Blum
D. J. Heebner
Donovan McCarty

Thomas Linn
Scott Eldridge
Cara Houck
Emily Palacios

Michael Hartmann
Leo Goddeyne
Paul Hudson
Kamil Robakiewicz

Matthew Allen
James Liggins
Rebecca Mancini
Michael Simoni

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www.aclumich.org

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Fax 517.372.5121
E-mail aclu@aclumich.org
www.aclumich.org

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Fax 616.301.0640
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www.aclumich.org

February 14, 2018

Robert Mathis
John W. Cummiskey Pro Bono Award
State Bar of Michigan
306 Townsend Street
Lansing, MI 48933-2012
(517) 346-6412

Re: Support for the nomination of Kimberly Scott for the Cummiskey Award

Dear Mr. Mathis,

We are writing in support of the nomination for the John W. Cummiskey Pro Bono Award of our friend and colleague Kimberly Scott. Kim has provided extraordinary pro bono counsel and representation for people whose rights and interests would otherwise have been extinguished because they could not afford legal services. She is a model for our bar's pro bono commitment and we urge you to recognize her with this high honor.

We have grown to know Kim over the past eight months while working with her on the *Hamama v. Adducci* litigation. This federal class action started in June, when the ACLU of Michigan asked Kim's firm, Miller Canfield, if it would be willing to provide pro bono support to emergency litigation to prevent the deportation of hundreds of Detroit-area Iraqis who had suddenly been rounded up by U.S. Immigration and Customs Enforcement (ICE). Many had been living in the community for years because Iraq had previously refused to accept their repatriation, and they now faced imminent deportation, with the very real possibility of persecution, torture, or even murder. The proposed litigation was very time-sensitive, as we had heard rumors that planes to Iraq were departing in a few days. The litigation was also very complex, involving never-tested legal theories and constantly shifting facts on the ground.

Kim was recruited to the team on the theory that the case would involve an intense sprint to get a temporary restraining order, and not much more. Eight months later, the *Hamama* team is engaged in a (sprint-paced) marathon, but with some pretty amazing victories. Kim has kept at it tirelessly, and much of the credit for our success goes to her.

Hamama is the first—and so far the largest and most successful for its clients—of a series of cases around the country insisting that individuals facing deportation are entitled to due process *now*, when the government seeks to deport them, not just decades ago, when they were first changed with violations of immigration law. This group of cases was

profiled last week in the New York Times.¹

We first won the temporary restraining order, which gave the team breathing space to litigate. Then we won a preliminary injunction with nationwide class relief for 1400 individuals facing deportation, which gave them breathing space to seek to reopen their immigration cases and present to the immigration courts their claims that under current conditions they cannot lawfully be deported. Most of those newly reopened cases are not completed yet, but the class members—represented by individual immigration counsel—have an amazing immigration court success record so far. And while that preliminary injunction is on appeal to the 6th Circuit, just last month we won a second preliminary injunction, requiring the government to hold bond hearings for nearly all the 300 class members currently in detention, and to retain them in detention only if they pose a danger to the community or a flight risk. Two-thirds of the bond hearings have resulted in either grants of bond or release on personal recognizance for the individuals involved—who have spent many months in detention without any appropriate justification for that deprivation.

The stakes could not be higher. But Kim is both skilled and unflappable. Despite the intense pressure of litigating a nationwide habeas class action where people's lives are literally on the line, Kim is an absolute rock. She is also unfailingly reliable. When you ask her to do something, you know it will get done, and you know it will get done well. She has taken principal responsibility for all filings, meaning that she has coordinated a team of lawyers from different organizations in different places across the country and managed to produce complex pleadings on a very tight schedule. She has also managed discovery, which is proceeding now, raising complex production of our discovery requests, and which requires a great deal of work to hone our discovery requests in light of numerous governmental privilege objections. She is patient and persistent and has terrific attention to detail. She not only pulls her weight, but uncomplainingly takes on task after task.

Kim has excellent judgment and a keen sense of litigation strategy. Her counsel, her sense of timing, and her instincts for what will appeal to the court have been critical to how we have litigated this case. She is a gifted communicator and has wonderful inter-personal skills that allow her to work well with a wide range of people. Her good humor is coupled with a practical, no-nonsense demeanor, and that combination has, on countless occasions, helped our team weather the inevitable ups and downs of intense litigation.

Our clients in this litigation are hundreds of Iraqi nationals who were, out of nowhere, detained far from their families and communities. The impact has been devastating; class members have lost their businesses and their homes. Their physical and mental health has been undermined by months in jail. Their families face economic devastation in addition to the emotional strain of uncertainty, separation, and the prospect of grave harm if they are deported to Iraq, a country many of them barely know. They could not possibly have paid for the kind of litigation that is saving their lives and restoring them to their families. And the ACLU,

¹ See Liz Robbins, Not So Fast on Deportations, Judges Tell Immigration Agency, N.Y. Times (Feb. 9, 2018), <https://www.nytimes.com/2018/02/09/nyregion/federal-courts-deportation-ragbir-indonesians-stays-ice.html>.

Michigan Immigrant Rights Center, and CODE Legal Aid—the nonprofit parts of our team—could not possibly have done the litigation without Kim and her pro bono work.

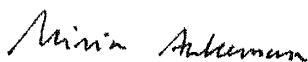
We come to this litigation with varied backgrounds: Miriam Aukerman and Mike Steinberg have worked for the ACLU for 27 years between them; they have worked with hundreds of cooperating attorneys. Margo Schlanger is a law professor at the University of Michigan and the former presidentially appointed head of civil rights at the Department of Homeland Security. She has worked on many complex civil rights projects with government, private law firm, and public interest colleagues. We share our high assessment of Kim’s skills, contributions, and steadfastness, and our tremendous gratitude to her for the countless hours she has devoted to this case.

We, and our clients, are grateful to Kim for devoting so much of her time and talents to the *Hamama* case. This is work in the highest and best pro bono tradition. Please do not hesitate to contact us should you have any other questions.

Yours,



Michael J. Steinberg
Legal Director



Miriam J. Aukerman
Senior Staff Attorney



Margo Schlanger
Cooperating Attorney

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Michigan Immigrant Rights Center
3030 S. 9th St., Suite 1B
Kalamazoo, MI 49009
Tel: (269) 492-7196
Fax: (269) 492-7198
www.MichiganImmigrant.org

February 12, 2018

State Bar of Michigan
306 Townsend St
Lansing, MI 48933

Re: In Support of Kimberly L. Scott

Dear Committee Members:

I am pleased to have the opportunity to support the nomination of Kimberly L. Scott for the John W. Cumiskey Pro Bono Award. It has been my pleasure to serve as cocounsel in *Hamama v. Aducci*, 2:17-cv-11910 (E.D. Mich.), a class-action habeas petition led by the ACLU of Michigan. The case has been a team effort with multiple co-counsel, but Miller Canfield's contributions, led skillfully by Kim, have been essential. Kim has brought the highest energy and skill to this ground-breaking civil rights litigation. I am so grateful for her efforts and highly recommend her for this award.

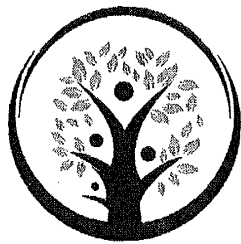
Please do not hesitate to contact me if I can provide additional information. Thank you for your good work

Sincerely,

Susan E. Reed
Managing Attorney



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CODE LEGAL AID
Counseling | Opportunity | Deliverance | Education

February 13, 2018

Mr. Robert Mathis
John W. Cumiskey Pro Bono Award
State Bar of Michigan
306 Townsend St.
Lansing, MI 48933-2012

Dear Mr. Mathis:

My Name is Nadine Yousif and I am an attorney and Co-founder of CODE Legal Aid, Inc., a non-profit legal organization focusing on the refugee and immigrant communities in Metro-Detroit. I have had the pleasure working with Kimberly Scott in the recent federal class action suit, *Hamama v. Adducci*. This class action was a result of the round up of more than 200 Iraqi nationals under removal orders to be deported to Iraq.

Kimberly Scott has been working tirelessly on behalf of the Iraqi community since the case began. She is an essential member of the legal team and her commitment to the case has inspired all of us. Kim's dedication is unmatched, as she has gone above and beyond to address the needs of the class and has done so with a smile on her face. Her willingness to be a true advocate for the Iraqi community and for the case as a whole shows that she is very deserving of any honorable State Bar of Michigan recognition.

I believe that she would be an exceptional candidate of the the John W. Cumiskey Pro Bono Award.

Sincerely,

Nadine Yousif, ESQ.

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February 12, 2018

Via First Class Mail

Mr. Robert Mathis

John W. Cummiskey Pro Bono Award

State Bar of Michigan

306 Townsend St.

Lansing, MI 48933-2012

Re: Kimberly Scott


Seldom is an attorney an outstanding litigator and finds the time to practice pro-bono. Kim manages to do both t with the same effort, passion, and quality. I have personally watched as Kim took on managing a nationwide class action suit and a 6th circuit appeal all while working full time at Miller Canfield. She drafted and responded to motions with deadlines others would crumble under.

On June 11, 2017, a nationwide raid of Iraqi Nationals occurred. Kim stepped up to the plate and volunteered to take on the nationwide class action suit on behalf of over 1400 nationals. She has been successful in obtaining a TRO, preliminary injunction and countless other motions. While the battle is still ongoing in the trial court, Kim is juggling a 6th circuit appeal. She does all this with a smile on her face. She argues fearlessly and takes pride in her work she produces.

The vast majority of Kim's pro-bono clients are Christian-Iraqi's who would be tortured or killed if returned to Iraq. Instead of standing idle, she worked tirelessly and prevailed which allowed countless people to obtain asylum or other forms of immigration relief. Since June of 2017, Kim has saved over 100 lives. Her success in the courtroom allowed hundreds of persons to stay in the United States and flee death by being sent back to Iraq.

Kim embodies all the qualities of a *great* attorney. There is without a doubt in my mind she should be the recipient of the 2018 State Bar's Cummiskey award.

Very Truly Yours,


Nora Youkhana, Esq.

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Edward Burley #502426
Carson City Correctional Facility (DRF)
10274 Boyer Rd.
Carson City, Michigan 48811

December 27, 2017

MILLER & CANFIELD FOUNDERS
Miller, Canfield, Paddock and Stone, P.L.C.
101 North Main, Seventh Floor
Ann Arbor, Michigan 48104

Re: Burley v Miller, et al.
Case No. 2:15-cv-12637

Dear Firm Owners:


Please be advised I write to commend you for adopting a Pro Bono Program. Your firm accepted my case from the Eastern District Court for representation on a prisoner conditions of confinement case. I write to essentially communicate that I am gratified with the representation that I've received thus far from Ms. Kimberly Scott, John Willems, Christopher Knight, and James Woolard. They have all demonstrated competent representation and have at all times shown professionalism in their representation. They are very valued and respected.

Further, the Pro Bono Program is essential to the sound maintenance and balance of the judicial system. Personally, I could have never represented the instant case without the assistance from your firm. All aforementioned representatives have worked tirelessly and intently on my case. They have truly offered me effective representation where I could not have achieved it otherwise. I would encourage your firm to further endorse and possibly recruit other firms to adopt a pro bono program. I congratulate your firm for its continual commitment to offering representation to those who cannot afford it.

In closing, Ms. Scott and Mr. Woolard have spearheaded the representation. They have provided most effective advocacy in their representation. For example, Ms. Scott has went as far as to retain the expert services from Dr. Njira Lugogo, MD. Ms. Lugogo has proven to shed light on my health condition and the lack of care by Corizon Health Care Inc. and the MDOC. Ms. Scott and Mr. Woolard should be recognized for their professionalism and effective advocacy. To be quite frank, your associates are the best representation I've ever received. They all should be recognized for their excellence in their respective areas of expertise.

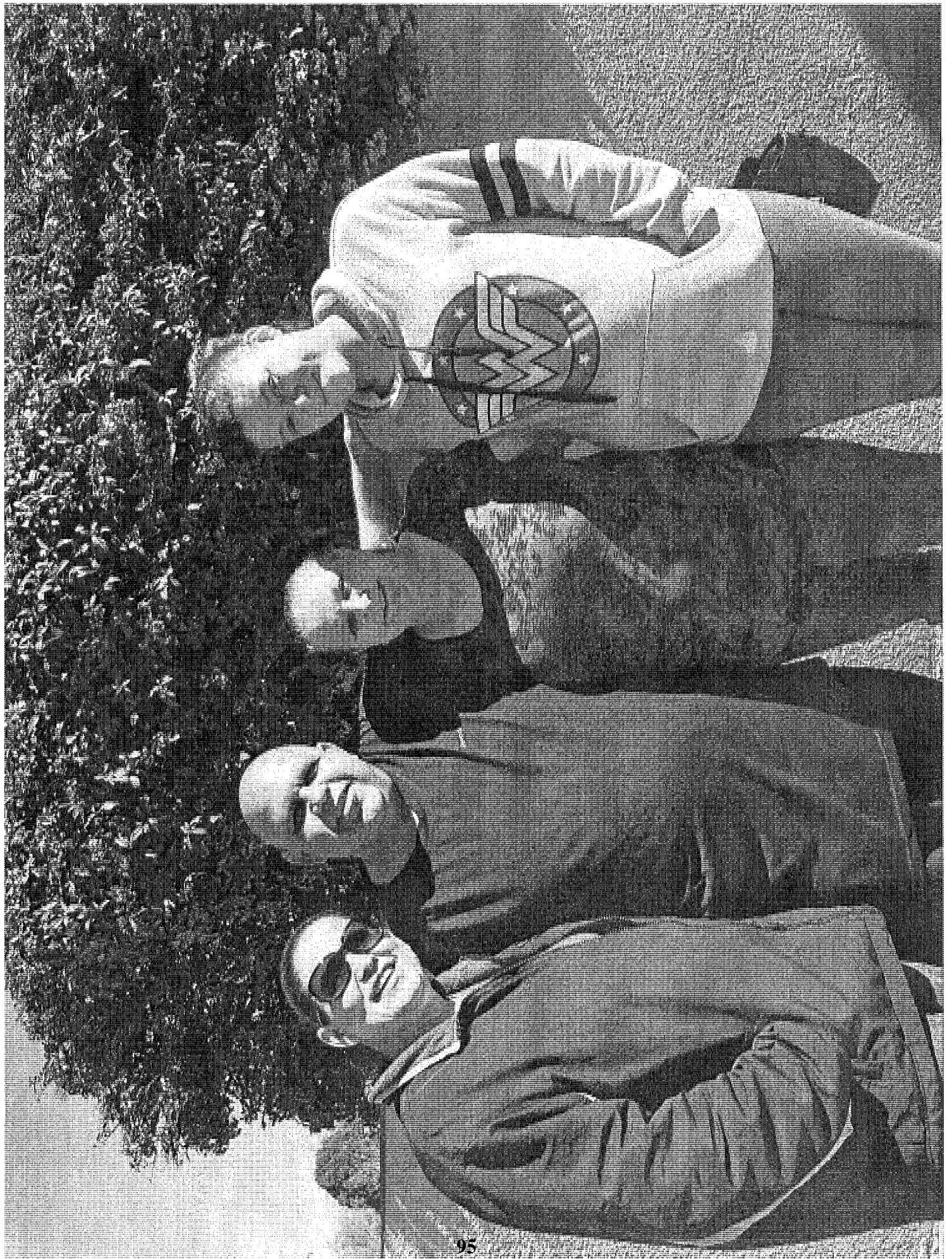
Thank you from my heart for providing me effective representation via your Pro Bono Program-I am sincerely appreciative!!! In the interim, I shall look forward to the upcoming year and what it has to offer. I sincerely extend a very Blessed New Year to the entire firm. I humbly remain,

Sincerely yours,


Edward Donald Burley
MDOC #502426

Cc: File

9







p 517-346-6300

p 800-968-1442

f 517-482-6248

www.michbar.org

To: Board of Commissioners
Communications and Member Services Committee Chairs
From: Robert Buchanan and Dana Warnez
Date: April 1, 2019
Subject: 2019 State Bar Award Nominations

306 Townsend Street
Michael Franck Building
Lansing, MI
48933-2012

The State Bar of Michigan Awards Committee met on Tuesday, March 28, 2019 and recommends the following people receive 2019 State Bar of Michigan Awards:

Roberts P. Hudson Award

The committee recommends one individual: **Lawrence P. Nolan.**

Frank J. Kelley Distinguished Public Service Award

The committee recommends one individual: **Hon. Michael J. Talbot.**

Champion of Justice Award

The committee recommends three individuals: **Julie A. Gafkay, Robert F. Gillett, and Marla R. McCowan.**

Kim Cahill Bar Leadership Award

The committee recommends one individual: **Michael J. Sullivan.**

John W. Reed Michigan Lawyer Legacy Award

The committee recommends two individuals: **Professor Lawrence C. Mann and Professor Suellyn Scarnecchia.**

The committee will recommend a Liberty Bell Award winner to the Board at the Board's June meeting.

To view all SBM award nominations, visit <http://bit.ly/SBMAwards>. This is a password-protected website, so you will have to enter your SBM username or P number, and then the password you use to access the member area of michbar.org.

SBM

STATE BAR OF MICHIGAN

MICHAEL FRANCK BUILDING
306 TOWNSEND STREET
LANSING, MI 48933-2012

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