

President Pappas called the meeting to order at 9:10 a.m. on Friday, June 12, 2009 at the Grand Hotel, Mackinac Island in the Grand Pavilion Room.

Commissioners present:

David Brake

Lori A. Buiteweg

B. D. "Chris" Christenson

Margaret A. Costello

Bruce A. Courtade, Treasurer

Richard L. Cunningham

Brian D. Einhorn

James N. Erhart

Elias J. Escobedo, Jr.

Julie I. Fershtman, Secretary

Elizabeth M. Johnson

Katherine Kakish

David A. Kallman

Donald E. McGinnis, Jr.

Hon. William Murphy

Lambro Niforos

Edward H. Pappas, President

Victoria A. Radke

Michael J. Riordan

Donald G. Rockwell

Thomas C. Rombach

Kurt Schnelz

Richard J. Siriani

Charles R. Toy, President-Elect

Gregory L. Ulrich

Commissioners absent and excused:

Commissioners Mason Anderson, Hall Burns, Chappelle, Fergan, Jenkins, Pelton, and Sullivan were absent and excused.

State Bar Staff present:

Janet K. Welch, Executive Director

Marge Bossenbery, Executive Coordinator

Gregory Conyers, Director, Justice Initiatives

Candace Crowley, Manager, External Development

Dawn Evans, Director, Professional Standards

Cliff Flood, General Counsel

James Horsch, Director, Finance and Administration

Elizabeth Lyon, Director, Governmental Relations

Will Kramer, Director, Information Technology Services

Naseem Stecker, Manager, Media and Public Relations

Anne Vrooman, Director, Research and Development

Guests

John Barr

Lynn Chard, Executive Director, Institute for Continuing Legal Education

Ronald D. Keefe, Past President, State Bar of Michigan

Nell Kuhnmuensch, Governmental Consultants Services, Inc.

Brian D. Pappas

Wallace D. Riley, Past President, State Bar of Michigan

Fred Stackable

Jamie Trimble, President, Ontario Bar Association

Consent Agenda

Minutes

The Board received the minutes from the April 17, 2009 Board of Commissioners meeting.

The Board received the minutes from the April 7 and 28, 2009 Executive Committee meetings.

***President's Report***, Edward H. Pappas, President

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

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

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

***Finance***, Bruce A. Courtade, Chairperson

The Board received the FY Financial reports through April 2009 and the FY 2009 financial forecast.

***Professional Standards***, Julie I. Fershtman, Chairperson

The Board received the Client Protection Fund Claims.

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

## **COMMISSIONER COMMITTEES**

***Finance***, Bruce A. Courtade, Chairperson

Mr. Courtade provided the Board with a financial update and forecast of the State Bar.

***Professional Standards***, Julie I. Fershtman, Chairperson

Ms. Evans discussed the new Practice Management Resource Center (PMRC) customized training and consulting program with the Board.

***Programs and Services***, W. Anthony Jenkins, Chairperson

There was no report provided.

***Public Policy, Image and Identity***, Charles R. Toy, Chairperson

**Justice Initiatives Report**

The Board received a written report from Justice Initiatives.

The Board received a written report from Governmental Consultants Services, Inc.

**Court Rules**

There were no court rules to consider.

**Legislation**

HB 4040 Crime victims; rights; right of victim of identity theft to file police report of that theft; provide for, and require court to order certain restitution.

HB 4041 Crime victims; rights; restitution of certain costs incurred by victims of identity theft; amend William Van Regenmorter crime victim's rights act to require.

HB 4042 Juveniles; criminal procedure; restitution of certain cost incurred by victims of identity theft; amend probate code of 1939 to require.

Motion offered and supported to take no position on these bills and write a letter providing technical amendments, including the mandatory restitution provision and to apply a reasonableness standard to the amount of restitution. Motion carried.

HB 4885 Courts; juries; jury pool selection process; revise.

HB 4886 Courts; juries; names and addresses of taxpayers; allow to be disclosed to jury boards for selecting jury pools.

Motion offered and supported to authorize Ms. Lyon and Ms. Vrooman to participate further with workgroups as evidence of the committee's support in concept of the increase of jury pools. Motion carried

HB 4314 Juveniles; criminal procedure; appointment of attorney to represent a juvenile in certain proceedings; require.

Motion was offered and supported to support the bill with the following amendment on page 1, end of Line 8: "unless private counsel has been retained" and an amendment on page 2, at the end of Line 17 "after consultation with an attorney." Motion carried.

HB 4331 Probate; powers of attorney; power of attorney for individuals 60 years of age or vulnerable adults; require to register with probate court.

The committee recommended that no position be taken and encourage the sections to advocate their positions.

HB4405 – Criminal Procedure; Record expunction for certain offenders

Motion offered and supported to support this bill with the clarification that this does not expunge offenses from the driving record or any records maintained by the State Driving Licensing Board. Motion carried.

HB4505 Probate; wills and estates; decisions regarding funeral, burial, or cremation; allow individual to designate a person to make decisions and require that the individual's instructions be followed

The committee recommended that the no position be taken and encourage the sections to advocate their positions.

HB4571 Torts; medical malpractice; miscellaneous procedural provisions for medical malpractice actions

The committee recommended that the no position be taken.

HB 4845 Insurance; no-fault; notice and statute of limitations; provide for general amendments

HB5033 Civil procedure; statute of limitations; technical amendments to section 5851 of the revised judicature act

The committee recommended that no position be taken and encourage the sections to advocate their positions.

SB0473 Courts; other; use of 2-way interactive video technology for certain court proceedings; require whenever possible

A motion was offered and supported to oppose the bill. Motion carried.

## LEADERSHIP REPORTS

### President's Report, Edward H. Pappas, President

#### Board Officer Election Update

Mr. Pappas announced that Commissioners Brian Einhorn and Tom Rombach had submitted letters of interest and completed matrices for the position of treasurer of the Board of Commissioners. The election will take place at the July 24 board meeting.

#### LRE Report

Mr. Pappas reported that a plan has been developed for the Law Related Education (LRE). Mr. Pappas indicated that LRE is a top priority of the SBM and that future developments in this area will be discussed at the July Board meeting.

#### Senior Lawyers Report

Mr. Keefe provided the board with an update on the history of the senior lawyers section planning committee that began during his presidency. He also reviewed the proposed revised recommendations and the budget

Ms. Welch indicated that there was an ambiguity in proposed change #4 and offered an amendment that the Executive Committee endorsed. The change would allow members that are 50 years of age and had 20 years of experience could join the section for a cost of \$20.

Mr. Ulrich offered a motion to adopt the proposed recommendations from the Senior Lawyers Section Planning Group including the amendment that was endorsed by the Executive Committee. The motion was supported and discussion began.

Mr. Erhart indicated that this item had been tabled at a previous meeting and the motion needed to "un-table" the motion before action could be taken. He offered a motion to un-table the topic, support offered and the motion carried.

Greg reinstated his motion, support was offered and discussion continued.

A vote was taken on the motion and the motion passed.

#### Professionalism Program

Mr. Pappas reported that twenty judges and lawyers participated in the May 8 professionalism program that was conducted at the new student orientation at the Auburn Hills campus of Cooley Law School.

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

#### FY2010 Preliminary Budget

Ms. Welch reviewed the Preliminary FY 2010 budget with the Board.

#### 2009 SBM Award Committee recommendations

Motion offered and supported to approve the 2009 SBM Award Committee recommendations. Motion carried.

#### SBM Proposed Sponsorship Policy

Motion offered and supported to adopt the SBM proposed sponsorship policy. Motion carried

#### Supreme Court Matters

Ms. Welch reported on the proposed creation of a SBM Task Force to address long-range challenges to the judicial branch presented by the fundamental economic and demographic changes Michigan is undergoing.

Ms. Welch reported that the US Supreme Court decided the Caperton decision, addressing due process issues raised by judicial campaign contributions and disqualification standards.

2009 Election Update

Ms. Welch reported that to date close to 7,000 members have voted in the 2009 SBM elections.

Personnel Matters

There were no personnel matters to report.

Litigation Status Report

There was no issue that required an executive session.

**Representative Assembly Report**, Katherine Kakish, Chairperson

Ms. Kakish reported that immediately following the July 24 Board meeting that a ceremony will take place recognizing the photos of the past RA chairs.

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

No report was provided.

**Young Lawyers Section Report**, Chris Christenson, Chairperson

Mr. Christenson provided the Board with a report on the Young Lawyers Section activities.

**Comments or questions from Commissioners**

Mr. Courtade complimented the SBM staff for their coordination of lobbying efforts for legal aid funding and indigent criminal defense issues during ABA Day in Washington, D.C.

Mr. Einhorn complimented Elizabeth Lyon on her success in raising the stature of the State Bar's lobbying within the legislature.

Mr. Ulrich mentioned that he had recent conversations with chief judges about laws that are amended in a piecemeal fashion and asked whether this issue is addressed by the Law Revision Commission and whether the State Bar has any involvement with the Commission. Ms. Welch responded that the SBM has recently strengthened expanded its involvement with the Commission, and that Cliff Flood is now attending the Commission's meetings.

Judge Murphy indicated that he heard from several lawyers who attended the 50-year honoree luncheon and mentioned to him that it was a good event to have and that they enjoyed themselves.

**Comments or questions from the public**

Ms. Chard reported that the probate and estate section led the effort to get revisions to trust fund legislation passed. She also reported that ICLE will hold a one hour webcast concerning the new legislation that passed dealing with foreclosure and that so far 300 individuals had signed up for it.

**Adjournment**

The meeting was adjourned at 11:10 p.m.