

AGENDA ITEM

May 10 - Board of Trustees – March 7, 2014 Minutes

THE STATE BAR OF CALIFORNIA

MINUTES

BOARD OF TRUSTEES MEETING

**The State Bar of California
845 South Figueroa Street
Board Room, 2nd Floor
Los Angeles, CA 90017-2515**

FRIDAY, MARCH 7, 2014

The Board of Trustees of The State Bar of California convened in open session at 8:40 am at the State Bar of California, 845 S. Figueroa Street, Board Room, 2nd Floor, Los Angeles, California on Friday, March 7, 2014, Luis J. Rodriguez presiding.

The following members of the Board of Trustees were present: Michael Colantuono, Glenda Corcoran, Dan Dean, Nancy Fineman, Craig Holden, Miriam A. Krinsky, Dennis Mangers, Pearl Mann, Joanna Mendoza, Gwen Moore, David Pasternak, Heather Rosing, Mark Shem, David Torres and Hernán D. Vera.

The following members of staff were present: Resty Buenavidez, John Chiappetta, Dina DiLoreto, Joseph Dunn, Kelli Evans, Carina Franck, Dina Goldman, Francisco Gomez, Teri Greenman, Karen Hagelund, Robert A. Hawley, Jayne Kim, Thomas Miller, Gayle Murphy, Sonja Oehler, Rigoberto Romero, Peggy Van Horn, Jennifer Wada, Pam Wilson, Ginnie Yee and Larry Yee.

The roll-call vote was taken, and upon motion made, seconded and unanimously adopted, it was

RESOLVED, that the roll-call vote will be substituted for the vote unless otherwise noted.

All members listed on the roll-call slip voted yes.

10 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that the minutes of the regular meeting of the Board of Trustees held on Friday, November 15, 2013, in San Francisco, California, hereby are approved as written; and it is

FURTHER RESOLVED, that the minutes of the special meeting of the Board of Trustees held on Friday, December 12, 2013, by conference call, hereby are approved as written; and it is

FURTHER RESOLVED, that the minutes of the special meeting of the Board of Trustees held on Saturday, January 11, 2014, in Newport Beach, California, hereby are approved as written.

All members listed on the slip voted yes, except Ms. Moore and Mr. Vera who had left the meeting.

Mr. Rodriguez called for public comment, inquiring as to whether there were persons in attendance who wished to comment on a particular item on the agenda.

The following individuals commented, on Item number 7001, Sander v. State Bar, Cal. S. Ct. case no. S194951, SF Sup. Ct. case no. CPF08508880, which was on the agenda for discussion in closed session:

(1) Norma Nava, Vice President, For People of Color, Inc.; (2) UCLA law students John Reynolds & Asia Womack, Co-Chair Black Law Students Association; (3) Juan Ramos, attorney; (4) Caryn Mandelbaum, attorney and UCLA alum; and (5) Tami L. Warren, attorney, public defender and President, Black Women Lawyers.

The commenters urged the Board not to provide plaintiffs Richard Sander, Joe Hicks, and the California First Amendment Coalition with access to information contained in its bar admissions database, including applicants bar exam scores, law school attended, grade point averages, Law School Admissions Exam scores, and race or ethnicity.

30 Mr. Rodriguez reported that he attended an event on January 14 where California Chief Justice Tani Cantil-Sakauye was joined by California Chamber of Commerce President and CEO Allan Zaremberg, legislators, business owners and others as she launched a three-year plan to reinvest in California's justice system. Senate President Pro Tem Darrell Steinberg, Senator Noreen Evans, and Assemblyman Bob Wieckowski also spoke at the event, echoing Cantil-Sakauye in the call for more court funding.

Mr. Rodriguez emphasized that in 2014, he, along with the Bench-Bar Coalition and the Open Courts Coalition would continue to advocate for better court funding.

Mr. Rodriguez said that he was excited to be putting together the Unauthorized Practice of Law Oversight Committee made up of a substantial number of non-lawyers with a focus on activities that can cause client harm.

Mr. Rodriguez shared that Trustee David Pasternak and his wife Cynthia would both be recipients of the Metropolitan News-Enterprise's "Person of the Year" award for 2013.

Mr. Rodriguez reported on the ongoing external relations activities that included a meeting with Southern California consulate generals and legal services community. He explained that the meeting served to educate the immigrant community on legal aid opportunities. A similar meeting is planned for Northern California.

Mr. Rodriguez reported that he had met with Jason Lee, the incoming Chair of the Judicial Nominees Evaluation Commission (JNE). Mr. Rodriguez expressed that Mr. Lee had a great vision for moving JNE forward and that he would present to the Board in May.

Mr. Rodriguez thanked the Trustee liaisons for their outreach to State Bar committees, commissions and sections. Mr. Rodriguez said that all were appreciative of the Board's efforts. Mr. Rodriguez asked that the Trustees continue to engage the State Bar committees, commissions and sections.

Mr. Rodriguez advised that the Governance Working Group had continued its review of the Board's standing committee structure which it would present to the Board Planning, Program Development and Budget Committee at this meeting and that it would return in May with recommendations for adoption by the Board.

Mr. Rodriguez announced the appointment of a Mandatory Continuing Legal Education Working Group comprised of Trustees David Pasternak, Chair, Miriam Krinsky, and Joanna Mendoza.

Mr. Rodriguez announced that the Civil Justice Strategies Task Force had been appointed and that it would meet in Los Angeles on March 26. Mr. Rodriguez also noted that he had appointed the Discipline Standards Task Force.

With the assistance of Peggy Van Horn, the State Bar's Chief Financial Officer, Mr. Rodriguez presented eleven staff members with a Presidential Recognition Award for their gracious and competent assistance in connection to the purchase, construction and move to the State Bar's Los Angeles 845 S. Figueroa building.

Next, Mr. Rodriguez presented an award to Mary Flynn, Director of Legal Services, in recognition of her extraordinary contributions for over 32 years to the State Bar, the Legal Services Community, and the people of California.

Lastly, Mr. Rodriguez presented a legislative resolution honoring former Trustee Christopher Todd for his contributions to the Board during his tenure.

41/42 Mr. Dunn introduced Jennifer Wada, the State Bar's legislative advocate who reported on bills of interest to the State Bar.

Assembly Bill 2746 (Assembly Judiciary Committee) – State Bar Fee Bill; Assembly Bill 1515 (Gonzalez) – Advance Attorney Fees; Assembly Bill 852 (Dickinson) – Unauthorized Practice of Law; AB 1800 (Alejo) – Law Fellowships; Assembly Bill 2696 (Gonzalez) – State Bar Spot Bill; Assembly Bill 2286 (Wagner) – Process Servers; Assembly Bill 1730 (Wagner) – Loan Modifications; and SB 907 (Monning) – International Arbitration.

Mr. Dunn introduced Alex Calero, Chair of the California Young Lawyers Association (CYLA), who thanked the Board of Trustees, President Rodriguez, and Joseph Dunn for their continued assistance. Mr. Calero also thanked Trustee David Torres for his report to CYLA on the Board's 2014 Planning meeting.

Mr. Calero reported that CYLA had been working with substantive law sections to develop a series of practical skills MCLE videos for new lawyers which would be made available on the CYLA website.

Mr. Calero reported that CYLA was actively looking to fill five vacancies on their board. Lastly, Mr. Calero invited the Board of Trustees to attend the CYLA meeting scheduled for Saturday, March 8, 2014.

Mr. Dunn introduced Ms. Jodi Cleesattle, Immediate Past Chair of the Public Law Section who reported on behalf of the Council of State Bar Sections. Ms. Cleesattle reported that for the past five years all section dues had remained at \$75.00 per member. However, in 2014, given budget restraints and the challenges faced with being 100% financially self-supporting, it was necessary for 4 sections to raise their dues to \$85.00 and 5 sections to raise their dues to \$95.00.

Ms. Cleesattle reported that the State Bar Sections had provided one hour of online ethics training as the “featured program of the month.” She advised that the program was available 24/7 at the State Bar’s online CLE catalog and sold for a reduced rate of \$10.00.

Ms. Cleesattle reported that during the past two years over 4,500 attorneys had watched the featured ethics programs of the month.

Ms. Cleesattle advised that this past January the Section Education Chairs held their annual in-person meeting covering a number of topics including the revised State Bar MCLE rules that go into effect on July 1, 2014. She explained that in 2014, the sections are working together on education projects and are fully prepared to comply with the updated MCLE requirements.

Mr. Dunn reported on the office of Public Protection’s outreach efforts including distribution of new brochure about “notaries.” Mr. Dunn introduced Carina Franck who reported on the State Bar’s Town Hall meetings. Ms. Franck explained that the State Bar was trying to identify and alert the public to potential problems they may face and which may bring them into contact with the legal system. Ms. Franck advised that the State Bar would stage a series of local town hall type meetings in conjunction with local, state and federal elected officials to alert citizens to consumer fraud.

Mr. Dunn introduced Rigoberto Romero who presented on external relations & public diplomatic and clerical outreach. Mr. Romero explained that these strategic external relations support and promote the State Bar’s public protection mission, provide for deeper community engagement and magnify the State Bar’s reach through collaborative relationships.

50 All items on the consent agenda were presented to the Board, and no objection being raised thereto, the following items on the consent agenda were deemed unanimously adopted.

54-111 This is a report of action taken on January 11, 2014, by the Board Committee on Operations and the Board of Trustees between regular meetings of the board.

The Board Committee and Board approved the following resolutions by respective two-thirds votes to add the Executive Director’s Contract amendment to the agenda as a late immediate action item.

Upon motion made, seconded and unanimously adopted, it was

WHEREAS, the existing Executive Director Agreement was extended at the meeting of the board in November 2013 to January 20, 2014, with the purpose to allow amendments to be considered at the January Planning Meeting;

WHEREAS, notice of the agenda item was inadvertently omitted when the agenda was posted on December 30, 2013, and was posted as a late item on January 2, 2014, the next business day after the New Year's holiday;

WHEREAS, action at the meeting on January 11, 2014, is necessary and appropriate so that the Executive Director's contract can be finalized before the end of its extended term and without the unnecessary expense of a separate and special meeting for this sole purpose;

RESOLVED, that the Board hereby finds that there is a need for immediate action and approve the adding of this item to the agenda as a late item.

All members except Gwen Moore and Mark Shem were present and all members present voted yes.

Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that upon the recommendation of the Board Committee on Operations, the Board of Trustees approves the Third Amendment to the contract between the Executive Director and the Board of Trustees in the form before the Board this date; and it is

FURTHER RESOLVED, that upon the recommendation of the Board Committee on Operations, the terms of the Third Amendment shall be reflected in a contract document consistent with the terms discussed this date, to be executed by Joseph Dunn as Executive Director and State Bar President Luis Rodriguez; and it is

FURTHER RESOLVED, that Luis Rodriguez, as State Bar President, is expressly authorized by the Board of Trustees to execute the Third Amendment to the Executive Director's contract as approved here to be effective as set forth in the contract document.

All members except Gwen Moore and Mark Shem were present and all members present voted yes.

54-112

RESOLVED, that upon the recommendation of the Board Committee on Operations, the Board hereby approves support the proposed legislation to promote civics learning and engagement among the state's K-12 students and adult learners.

54-131 RESOLVED, that upon the recommendation of the Member Oversight Committee, the Board hereby approves the fee adjustments for the following State Bar member(s) as noted below:

Rita Maria Canales (#181778) State Bar waives member's 2014 licensing fees in the amount of \$420.

Margaret E. Hoyt (#23937) State Bar waives member's 2013 licensing fees, late payment penalties, and reinstatement fee in the amount of \$610

Linda Maureen Lowson (#117989) State Bar waives member's 2013 licensing fees, late payment penalties, and reinstatement fee in the amount of \$255

Dana Eileen Malarney (#181923) State Bar waives member's 2012 and 2013 late payment penalties and reinstatement fee in the amount of \$280

54-132 RESOLVED, that upon the recommendation of the Member Oversight Committee, the Board hereby receives the report and thanks staff for its submission of the Lawyer Assistance Program 2013 Annual Report, as presented to the Board this day.

54-141 Investment Reports for the Year Ended December 31, 2013

RESOLVED, that upon the recommendation of the Planning, Program Development and Budget Committee, the Board hereby receives the investment reports in the form this day before the Board, for the year ended December 31, 2013, as certified by the Chief Financial Officer, and on file in the San Francisco office of the State Bar.

Client Security Fund Report for the Year Ended December 31, 2013

RESOLVED, that upon the recommendation of the Planning, Program Development and Budget Committee, the Board hereby receives the Client Security Fund report in the form this day before the Board, for the year ended December 31, 2013, as certified by the Chief Financial Officer, and on file in the San Francisco office of the State Bar.

54-161

RESOLVED, that upon the recommendation of the Stakeholder Relations Committee, the Board hereby approves the distribution of IOLTA grants from the Legal Services Trust Fund Program for the grant period July 1, 2014 through December 31, 2014 in the order and manner provided by Business and Professions Code Section 6216; and, that the funds distributed shall be \$4,808,623 calculated as follows:

- (1) \$2,250,000 from IOLTA revenue projected to be received by the Legal Services Trust Fund Program from July to December 2014;
- (2) \$2,891,123 from the Trust Fund Program's net assets/fund balance;
- (3) \$180,000 of donations to the Justice Gap Fund;
- (4) \$198,000 contributed by the State Bar;
- (5) \$4,500 in investment income;
- (6) Less projected net administrative costs of \$715,000.

FURTHER RESOLVED, that grant payments are to be made from funds received pursuant to California Business and Professions Code, Sections 6212 et seq., 6033 and 6140.03, and that payment of grants is contingent upon the State Bar having sufficient money on hand, after deducting for administrative costs, from such sources to make the scheduled payments; and it is

FURTHER RESOLVED, that the Legal Services Trust Fund Program is directed to monitor program revenue during the grant year, and to implement changes to the grant amount, if necessitated by significant variances between projected and actual revenue.

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Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that upon the recommendation of the Board Committee on Operations, the Board of Trustees adopts the resolution in the form attached; and it is

FURTHER RESOLVED, that the Board directs staff to finalize the Board Resolution and forward it to CalPERS; and it is

FURTHER RESOLVED, that the resolution is adopted in principle, subject to non-material changes that may be made as necessary to submit this resolution to CalPERS; and it is

FURTHER RESOLVED, that any such changes to the resolution be approved by the State Bar Executive Director, Office of General Counsel and Office of Human Resources.

All members present and recorded on the roll-call slip voted yes.

114

Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that the Board Committee on Operations recommends that the Board adopt the policy regarding speaker fees; and it is

FURTHER RESOLVED, that the Board Committee of Operations recommends that the Board approve a budget amendment to the 2014 budget in the Affinity and Insurance Fund in the amount of \$35,000 for the purpose of paying speaker fees.

All members present and recorded on the roll-call slip voted yes except Ms. Fineman who voted no.

133 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, following publication for public comment and no comments being received, and upon the recommendation of the Member Oversight Committee, that the Board of Trustees hereby adopts State Bar rules 7.100-7.105 for attorneys listed by the State Bar as eligible for special master appointment, as set forth in the attached, and repeals the existing Special Master Program Rules And Regulations, effective immediately.

All members present and recorded on the roll-call slip voted yes.

142 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that no public comment being required and upon the recommendation of the Planning, Program Development and Budget Committee, the Board hereby adds the fees and deadlines of the Lawyer Referral Services program referenced in rules 3.802(A), 3.803(A)(3) and 3.823(C)(1) to the Schedule of Charges and Deadlines, effective retroactive to January 21, 2014, as shown on Attachment A; and it is

FURTHER RESOLVED, that no public comment being required and upon recommendation of the Planning, Program Development and Budget Committee, that the Board amends the footnote in State Bar rule 3.829(A) as shown on Attachment B and instructs staff to transmit rule 3.829(A) to the Supreme Court for consideration and approval.

All members present and recorded on the roll-call slip voted yes.

143 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that upon the recommendation of the Planning, Program Development and Budget Committee, the Board hereby authorizes the Secretary to amend the schedule for district elections of members of the Board of Trustees, which is contained in State Bar Rules, Appendix A, Schedule of Charges and Deadlines, to move the Board district elections to the fall.

All members present and recorded on the roll-call slip voted yes.

144 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that no public comment being required and upon the recommendation of the Planning, Program Development and Budget Committee, the Board hereby adds to the Schedule of Charges and Deadlines the proper rule numbers corresponding to the Charges and Deadlines of the legal specialization program as referenced in Title 3, Division 2, Chapter 2, Rules 3.110 (A)(2), 3.112, 3.113, 3.117 (A), 3.124(A), and Title 3, Division 5, Chapter 4, Rules 3.901, 3.902, and 3.904, as shown on the proposed attachment to this item, effective January 1, 2014.

All members present and recorded on the roll-call slip voted yes.

The Board went into closed session at 11:26 am and those other persons present left the meeting.

The Board considered the appointments in closed session and the action taken is reported below.

6021 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that upon the recommendation of the Nominations and Appointments Committee, the Board hereby appoints the following fee arbitrators to the State Bar Fee Arbitration Department, each for a term effective immediately and expiring December 31, 2014.

Name	County	Bar Number
Cole, James Bradley	Ventura	156131
Hess, Lee Allen	Ventura	76764
Levy, Julie S.	Sonoma	255790
Offenbacher, Kimberly K.	Ventura	166318
Ribons, Michael Paul	Los Angeles	182617
Warren, David Paul	San Luis Obispo	82838
Petrovsky, Ladislav	Agoura	Non-attorney

All members present and recorded on the roll-call slip voted yes.

6022 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that upon the recommendation of the Nominations and Appointments Committee, Board appoint or reappoint, as the case may be, the following, State Bar delegates, American Bar Association (ABA) House of Delegates, contingent upon appointees being of good standing with the ABA; each term is for two years and is effective upon the conclusion of the 2014 ABA Annual Meeting (August 12, 2014) and expires at the conclusion of the 2016 ABA Annual Meeting (August 9, 2016), or until further order of the Board, whichever occurs earlier:

Anthony H. Barash, Chicago, Illinois;
Ernestine Forrest, Los Angeles;
Sandra R. McCandless, San Francisco;
Malissa Hathaway McKeith, Los Angeles;
Mark I. Schickman, San Francisco; and
John K. Uilkema, San Francisco

All members present and recorded on the roll-call slip voted yes.

6023 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that upon the recommendation of the Nominations and Appointments Committee, that the Board appoint two of the following three candidates as lawyer members of the Judicial Council, each member for a three-year term commencing September 15, 2014, and expiring September 14, 2017, or until further order of the Board, whichever occurs earlier:

Patrick Kelly, Los Angeles
Donna Melby, Los Angeles
Debra Pole, Los Angeles

All members present and recorded on the roll-call slip voted yes.

The Board adjourned its meeting at 1:07 pm

The Board may meet again at the call of the President at any time prior to the next regularly scheduled meeting of the Board, or, if no such meeting be called, at the State Bar offices, 180 Howard Street, Board Room, 4th Floor, San Francisco, California, May 9, 2014, at a time to be determined.