

## **AGENDA ITEM**

**MARCH 10 – Board of Trustees – November 18, 2016 Open Minutes**

### **THE STATE BAR OF CALIFORNIA**

#### **OPEN MINUTES**

#### **BOARD OF TRUSTEES MEETING**

#### **SAN FRANCISCO, CALIFORNIA**

**November 18, 2016**

The Board of Trustees of The State Bar of California convened in open session at 2:46 pm at the State Bar of California, 180 Howard Street, Board Room, 4<sup>th</sup> Floor, San Francisco, California, Friday, November 18, 2016, James Fox presiding.

The following members of the Board of Trustees were present: Janet Brewer, Mark Broughton, Michael Colantuono, Terrance Flanigan, Renée LaBran, Jason Lee, Joanna Mendoza, Danette Meyers, Richard Ramirez, Sean M. SeLegue, Stacie Spector, Brandon Stallings, Alan Steinbrecher and Todd Stevens.

The following member of the Board of Trustees was absent: Glenda Corcoran,

The following members of staff were present: Saul Bercovitch, Dina DiLoreto, Francisco Gomez, Teri Greenman, Vanessa Holton, Dag MacLeod, Elizabeth Parker and Leah Wilson.

Also present: Hon. Mark A. Juhas, Los Angeles County Superior Court; Lorin Kline, Legal Aid Association of California; Kyle W. Nageotte, Chair, California Young Lawyers Association (CYLA); Roey Rahmil, member, California Young Lawyers Association (CYLA); Hon. Laurie D. Zelon, Associate Justice, California Court of Appeal.

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 slip voted yes.

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

*#704 Staff Report on Potential Efficiencies Relating to State Bar Sub-Entities*

The Honorable Mark A. Juhas expressed support for the California Commission on Access to Justice and the Center on Access to Justice and requested that the board continue its funding and support.

The Honorable Laurie D. Zelon also expressed support for Access to Justice. She stated that public protection is a critical function of the Bar and the California Commission on Access to Justice is a model for the nation.

Justice Zelon urged the board to carry forward its commitment to the People of California by continuing to support and fund ongoing access to justice efforts.

Loren Kline spoke in support of Access to Justice staff. She stated that legal services depends on the work they do. Ms. Kline urged the board to use reserve funds to support the Office of Legal Services.

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

RESOLVED, that the minutes of the special meeting of the Board of Trustees held on Thursday, July 21, 2016 in Los Angeles, California are approved as written; and it is

FURTHER RESOLVED, that the minutes of the regular meeting held on Friday, July 22, 2016, in Los Angeles, California are approved as written; and it is

FURTHER RESOLVED, that the minutes of the special meeting for the election of officers held on Friday, July 22, 2016, in Los Angeles, California are approved as written; and it is

FURTHER RESOLVED, that the minutes of the special meeting held on Monday, September 12, 2016 in San Francisco, California are approved as written.

FURTHER RESOLVED, that the minutes of the special meeting held on Saturday, October 1, 2016 in San Diego, California are approved as written.

FURTHER RESOLVED, that the minutes of the special meeting held on Sunday, October 2, 2016 in San Diego, California are approved as written.

All members listed on the slip voted yes.

30 Mr. Fox announced that Renée LaBran and Sean SeLegue have been appointed to the Judicial Nominees Evaluation Review committee and that Janet Brewer and Terry Flanigan have been appointed to the Supreme Court's Applicant Evaluation and Nomination Committee.

30-1 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that the Board of Trustees hereby affirms the board committee assignments for the 2016-2017 board year **as presented** on November 18, 2016.

All members listed on the slip voted yes.

30-2 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that the Board of Trustees hereby affirms the board liaison assignments for the 2016-2017 board year **as presented** on November 18, 2016.

All members listed on the slip voted yes.

30-3 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that the Board of Trustees affirms that all regularly scheduled meetings of the Board be held as listed on **the attached** meeting schedule.

All members listed on the slip voted yes.

30-4 Item was withdrawn.

40 Ms. Parker introduced Kyle W. Nageotte, Chair, California Young Lawyers Association (CYLA) and Roey Rahmil, member, CYLA.

Mr. Nageotte expressed support for the recommendations presented in agenda item #704 Annual Meeting Structure, which is before the board for adoption. The recommendations include a partnership with the Lawyer Assistance Program (LAP) and focusing on the development of a curriculum for the new 10 hour MCLE requirement that will go into effect in 2018.

Mr. Nageotte also requested the board's support for continuing the Jack Berman Award as it ties directly into public protection.

Mr. Nageotte reported on CYLA's e-news, an important outreach function.

Mr. Nageotte and Mr. Rahmil thanked the board for the opportunity to speak and stated they would continue to advocate on behalf of CYLA's 50,000 members.

54-111 RESOLVED, that upon the recommendation of the Board Executive Committee, the Board of Trustees hereby adopts the amended charter for the Executive Committee that appears as **Attachment A.**

All members listed on the slip voted yes.

54-131 RESOLVED, that the Board of Trustees hereby delegates to staff the function of making the annual recommendation to the California Supreme Court that eligible suspensions that meet the criteria for expungement set forth in California Rule of Court 9.6 be expunged; and it is

FURTHER RESOLVED, that, upon the Court's order of expungement, staff is directed to immediately expunge the suspensions from the membership records and notify each member of the Court's order and the expungement.

All members present and recorded on the roll-call slip voted yes except for Michael Colantuono who abstained.

54-141 Item was withdrawn.

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

RESOLVED, that the Board of Trustees approves amendments to Board Book Tab 2.2, Article 3, Section 5; Tab 2.5, Article 1, Section 2; Tab 2.6, Article 1, Sections 3 and 4; Tab 3.6, Title 1; Tab 3.7, Article 2; Tab 5.1, Article 2; and Tab 5.2, Section 2, as presented to the board this day; and it is

FURTHER RESOLVED, that the Board of Trustees adopts the following amendment to State Bar Rules, Title 1, Division 2, Rule 1.11:

Rule 1.11 Availability of Public Comments

Public comment provided to the board regarding a rule proposal is available upon request, subject to a reasonable charge for processing copies.

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

121 There was no action on this item.

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

RESOLVED, following publication for comment and notice and upon recommendation of the Regulation and Discipline Committee, that the Board of Trustees adopts the proposed amendment to rule 2302 of the Rules of Procedure of the State Bar of California, as set forth in attachment C, effective upon adoption.

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

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

RESOLVED, following publication for comment and notice and upon recommendation of the Regulation and Discipline Committee, that the Board of Trustees adopts the proposed amendment of Rule 5.441(A), Rules of Procedure of the State Bar of California, and the Reinstatement Authorization and Release, as set forth in **attachments A and B**, effective upon adoption.

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

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

RESOLVED, that the Board of Trustees continues to support and encourage competency training during law school and that such training be incorporated into a standard law school education curriculum, but that a competency training admission requirement not be pursued at this time;

RESOLVED, that the Board of Trustees recommends that the Committee of Bar Examiners consider adopting rules requiring a minimum of 6 units of competency training as part of the curricula of the law schools it regulates, which rules will be subject to the approval of the Board of Trustees;

FURTHER RESOLVED, that the **Task Force on Admissions Regulation Reform proposal regarding mandated competency training admission requirements be referred to the Committee of Bar Examiners for further consideration, and the committee report back to the Board of Trustees on this matter during the Board's July 2017 meeting.** ~~Board of Trustees reassess in three years whether to pursue a competency training admissions requirement.~~

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

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

RESOLVED, that the Board of Trustees approves the proposed amendments to the Title 4, Division 1, Chapter 4, Rules 4.44 and 4.45 of the Rules of the State Bar regarding the processing of moral character determinations applications **as attached** hereto, effective immediately.

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

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

RESOLVED, that the Board of Trustees approves the amendments to the Accredited Law School Rules regarding Branch Campuses **as attached** hereto, effective immediately.

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

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

RESOLVED, that the Board of Trustees approves the amendments to Rule 4.108 of the *Accredited Law School Rules* and Rule 4.207 of the *Unaccredited Law School Rules* **as attached** hereto, which conform the law school rules to the California Public Records Act, effective immediately.

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

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

RESOLVED, that the Board of Trustees approve the 2017 Annual Meeting be held at the offices of the State Bar of California; and it is

FURTHER RESOLVED, the 2017 Annual Meeting contains a meeting of the Board of Trustees and a swearing-in ceremony.

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

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

RESOLVED, that the Board of Trustees approves the following Section legislative proposals: FL-2017-01; TE-2017-02; TE-2017-03; TE-2017-04; and BLS-2017-05.

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

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

RESOLVED, that the Audit Committee recommends that the Board receive the audited Statement of Expenditures of Mandatory Membership Fees for the year ended December 31, 2015, and the accompanying Report of the Independent Auditor, copies of which **are attached** hereto; and it is

FURTHER RESOLVED, that staff is directed to post the Statement and Report **with further explanation of modifications from prior year reports** on the State Bar's Web site and to notify members of the posting.

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

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

RESOLVED, that the Board of Trustees hereby adopts the following Board policy:

Notwithstanding Business and Professions Code section 6001, 6008.5, or any other provision of law, the State Bar shall not pledge, place a charge upon, or otherwise make available all or any portion of the income or revenue from membership fees for the payment of security of an obligation of the State Bar or any interest thereon; ~~and it is.~~

~~FURTHER RESOLVED, that the Board of Trustees hereby adopts the following Board policy:~~

~~Notwithstanding Business and Professions Code section 6001 or any other provision of law, the State Bar shall not create any foundations or nonprofit corporations.~~

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

703        There was no action on this item.

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

RESOLVED, that the Board of Trustees directs staff, consistent with the discussion in this Agenda Item, to:

1. Continue pursuing the transition of the core functions of the following Standing Committees into the Litigation Section, with the goal of finalizing that transition by January 1, 2017: a) Committee on Administration of Justice; b) Committee on Alternative Dispute Resolution; c) Committee on Appellate Courts; and d) Committee on Federal Courts.
2. Continue pursuing the proposed integration of the Standing Committee on the Delivery of Legal Services (SCDLS) into the California Commission on Access to Justice (Access Commission), subject to the opportunity of the Access Commission to vet and approve the proposed integration prior to the Board taking official action, with the goal of finalizing a proposal by January 1, 2017.
3. If the proposed integration of SCDLS into the Access Commission is effectuated, present the Board with a formal proposal to increase the number of appointees to the Access Commission from 10 to 12, dedicating the two additional seats for staff from nonprofit legal services and pro bono organizations.

4. Work with the Stakeholders, Access to Justice, and Appointments Committee to study the potential combination of the Committee on Group Insurance Programs and Committee on Professional Liability Insurance, and report back to the Board no later than March 2017 with a proposal.
5. Work with the Stakeholders, Access to Justice, and Appointments Committee to effectuate a modification of the appointment process for the Advisory Commissions be modified so the California Board of Legal Specialization, rather than the Board of Trustees, makes appointments to the Advisory Commissions.
6. Work with the California Young Lawyers Association (CYLA) to re-purpose CYLA's areas of focus to include 1) partnering with Lawyers Assistance Program staff and the Oversight Committee to develop and implement an outreach and education initiative for law students and new lawyers; and 2) assisting in the identification of appropriate topics for the new 10-hour MCLE requirement that will go into effect by February 1, 2018 and in the development and testing of this web-based curriculum.
7. Work with CYLA to prepare an annual workplan for the Admissions and Education Committee to review and approve, beginning in November 2017, to ensure that, upon the conclusion of CYLA's 2017 activities, the Board continues to exercise appropriate oversight over the CYLA's initiatives; and it is.
- ~~8. Work with the State Bar's Appointments Office to effectuate a revision to State Bar policy whereby current State Bar appointees to the ABA House of Delegates would serve their existing, but the State Bar will discontinue any further appointments to the ABA House of Delegates.~~

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

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

RESOLVED, that the board authorizes the reimbursement of the transfer of funds from the Lawyer Assistance Program to the Client Security Fund and delay actual repayment until the December meeting to give time to review sources of repayment.

All members present and recorded on the roll-call slip voted yes except for Renée LaBran, Jason Lee, Danette Meyers, Richard Ramirez and Todd Stevens who left the meeting.

Sean SeLegue left the room.

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



WHEREAS, on November 9, 2016, Special Master Justice Lui issued his report regarding the request of the State Bar of California for a Special Regulatory Assessment. The report provides a decision table to guide the court as it considers various options. It is possible that after receiving the Supreme Court's Order, there will be additional fee statement decisions that require direction from the Board of Trustees. Subsequent to receiving the Special Master's Report, Leah Wilson met with IT staff to discuss the timing of the preparation of the fee statement. It was decided that the State Bar should obtain the Board's resolution regarding the 2017 fee statement based on the possible options that may be adopted by the Supreme Court so that when the Court's Order issues, the fee statement can be immediately prepared. The State Bar staff requests the Board's direction regarding the fee statement at today's meeting to provide adequate time for the programming necessary to support timely issuance of fee statements; and

WHEREAS, the need for immediate direction from the Board regarding the 2017 fee statement in light of the Special Master's report and in order to provide adequate time for the programming necessary to support timely issuance of fee statement occurred after the 10-day period for notice of the agenda for today's meeting of the Board of Trustees on November 18, 2016;

WHEREAS, Government Code section 11125.3(a)(2) permits the adding of an item after the 10-day period if the Board finds that immediate action is needed, the need for action came to the attention of the State Bar subsequent to the posting of the agenda on Nov. 7, 2016, and the notice of the additional item is provided as soon as practicable and at least 48 hours before the meeting;

WHEREAS, notice was provided and posted on the State Bar's Web site on November 16, 2016;

RESOLVED, that the Board of Trustees hereby approves the adding of Item No. 706 to today's agenda of November 18, 2016, on the grounds pursuant to Government Code section 11125.3(a)(2).

All members present and recorded on the roll-call slip voted yes except for Sean SeLegue who was absent for the vote.

Sean SeLegue entered the room. Danette Meyers, Richard Ramirez and Todd Stevens left the meeting.

Upon motion made, seconded and unanimously adopted, it was

FURTHER RESOLVED, that staff is directed to initiate a voluntary separation program with further action to be taken by the board at a subsequent meeting.

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

Renée LaBran and Jason Lee left the meeting.

Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that staff is directed to include on the fee statement optional donations for two purposes: legislative activities at \$10 and Elimination of Bias at \$10.

All members present and recorded on the roll-call slip voted yes except for Joanna Mendoza who voted no.

The Board went into closed session at 12:14 pm to consider the appointments and the action taken is reported below.

6000 The following items on the consent agenda were presented to the Board, and no objection being raised thereto, were deemed unanimously adopted.

6011 RESOLVED, that the Board of Trustees approve appointment of Alejandro Delgado, to the California Rural Legal Assistance Board of Directors for a two-year term, commencing November 30, 2016, and expiring December 31, 2018, or until further order of the board, whichever occurs earlier.

6012 RESOLVED, that the Board of Trustees approve reappointment of Catherine J. Blakemore, Sacramento, as Vice Chair, California Commission on Access to Justice, for a term commencing January 1, 2017, and expiring December 31, 2017, or until further order of the board, whichever occurs earlier.

- 6013           RESOLVED, the Board of Trustees hereby appoints Dennis Wickham, San Diego, member, Business Law Section Executive Committee, effective immediately, replacing Robert Brayer, resigned, for the remaining portion of Mr. Brayer's term, expiring at the close of the 2017 State Bar Annual Meeting (i.e., date to be determined), or until further order of the Board, whichever occurs earlier.
- RESOLVED, the Board of Trustees hereby appoints Ellisa Miller, Los Angeles, member, Business Law Section Executive Committee, effective immediately, replacing Emily Yukich, resigned, for the remaining portion of Ms. Yukich's term, expiring at the close of the 2017 State Bar Annual Meeting (i.e., date to be determined), or until further order of the Board, whichever occurs earlier.
- 6014           RESOLVED, that the Board of Trustees hereby appoints Richard K. Bainter, San Diego, District 4, a member, of International Law Section Executive Committee, effective immediately, replacing Karla Haynes, resigned, for the remaining portion of Ms. Haynes' term, expiring at the closed of the 2017 State Bar Annual Meeting, or until further order of the Board, whichever occurs earlier.
- 6015           RESOLVED, that the Board of Trustees hereby appoint Kevin Mooney, Newport Beach, District 4, a member of Law Practice Management & Technology Section Executive Committee, effective immediately to a term expiring at the conclusion of the 2019 Annual Meeting, or until further order of the Board, whichever occurs earlier.
- 6016           RESOLVED, that the Board of Trustees approves appointment of Ms. Banafsheh Akhlaghi as Co-Vice Chair of the Legal Services Trust Fund Commission for the 2016-2017 term.
- 6017           RESOLVED, that upon the recommendation of the Nominations and Appointments Committee, the Board hereby appoints Robert P. Mosier, a public member, to the Client Security Fund Commission, effective immediately and expiring upon the end of the 2019 State Bar Annual Meeting, i.e., September 15, 2019, or until further order of the Board, whichever occurs earlier.
- 6018           RESOLVED, that the Board of Trustees approves the Interim Appointment of Emily Quinlan, to the Council on Access & Fairness to fill the remaining time on a vacant position, term ending October 2017.
- 6019           RESOLVED, that the Board of Trustees hereby reappoints two members of the Committee of Group Insurance: Demian Oksenendler, San Francisco, District 1, as Chair; and Susan J. Stapp, San Francisco, District 1, as a member, effective immediately, for one year terms, expiring at the close of the 2017 State Bar Annual Meeting, or until further order of the Board, whichever occurs earlier.

6019A RESOLVED, that the Board of Trustees hereby reappoints four members of the Committee of Professional Liability Insurance: James Arden, North Hollywood District 2, as a member; Randall Miller, Los Angeles, District 2, as a member; Glen Olson, San Francisco, District 1, as Chair; and Jennifer Saunders, Los Angeles, District 2, as a member, effective immediately, for one year terms, expiring at the close of the 2017 State Bar Annual Meeting, or until further order of the Board, whichever occurs earlier.

6019B RESOLVED, upon recommendation from the Board Committee on Stakeholders, Access to Justice and Appointments Committee, that the Board hereby appoints Paul A. Kramer to the Committee of Bar Examiners for a four-year term commencing immediately following action by the Board, and expiring upon the final day of the 2020 State Bar Annual Meeting, or until further order of the Board, whichever occurs earlier.

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

RESOLVED, that the Board of Trustees approve the interim appointment of the Hon. Richard Gilbert (Ret.) to fill the former judge vacancy on the JNE Commission for the remainder of the 2016-17 term.

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

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

RESOLVED, that the Board of Trustees hereby reappoints the fee arbitrators whose names appear on the list attached hereto **as Attachment A** to the State Bar Mandatory Fee Arbitration Department; each for a one-year term commencing January 1, 2017, and expiring December 31, 2017 and it is

FURTHER RESOLVED, that the Board of Trustees appoints the applicants whose names appear on the list below to the State Bar Mandatory Fee Arbitration Department, each for a term commencing November 18, 2016, and expiring December 31, 2017:

<b>Name</b>	<b>County</b>	<b>Bar Number</b>
Golding, Jonathan F.	Los Angeles	149243
Olsen, Christopher J.	Ventura	109124
Fernandez, Eldonna	Orange	Layperson

and it is

FURTHER RESOLVED, that the Board of Trustees reappoints Kenneth E. Bacon, Sacramento, as the State Bar's Presiding Arbitrator effective January 1, 2017 and expiring December 31, 2017.

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

The Board adjourned its meeting at 4:50 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, 845 S. Figueroa Street, Board Room, 5<sup>th</sup> Floor, Los Angeles, CA 90017, on Friday, March 10, 2017, at a time to be determined.