



# The State Bar *of California*

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## AGENDA ITEM

**MAY 10** – March 15, 2019, Open Session Minutes

Open Session Minutes  
Regular Meeting of the Board of Trustees

State Bar of California  
845 South Figueroa Street  
Board Room, 2<sup>nd</sup> Floor  
Los Angeles, California

Friday, March 15, 2019  
8:30 AM

**Time meeting commenced:** 8:37 AM

**Time meeting adjourned:** 2:21 PM

**Chair:** Jason Lee

**Secretary:** Sarah Cohen

**Members present:** Mark Broughton, Sonia Delen, Renee LaBran, Debbie Manning, Joanna Mendoza, Joshua Perttula, Sean SeLegue, Alan Steinbrecher

**Members joined in progress:** Hailyn Chen, Juan De La Cruz (attended Closed Session only), Ruben Duran

**Members absent:** Brandon Stallings

**Public Comment:** See summaries below.

*Jose Castaneda:* Mr. Castaneda filed a federal complaint against the State Bar, the superior court, and the Commission on Judicial Performance regarding two allegedly stolen inheritances. Mr. Castaneda wants to know how can a \$2.3 million estate disappear and what the State Bar can do to help him.

*Daniel Guss:* Mr. Guss, a journalist for CityWatch Los Angeles, commented on his inability to obtain records documenting completion of minimum continuing legal education requirements for State Bar staff and the Board of Trustees.

*Brian Rawers:* Mr. Rawers, of Lawyers Mutual Insurance Company (LMIC), addressed the issue of mandatory malpractice insurance. He observed that 70 percent of attorneys who provided public comment were not in favor.

*Al Hernandez:* Mr. Hernandez, an insurance broker specializing in legal malpractice, stated that the open model works but the captive model does not. He believes that the working group did an excellent job, but was not given enough time to explore and research the issues. According to Mr. Hernandez, mandating malpractice insurance without adequate research could inflict harm on the public.

*Salena Copeland:* Ms. Copeland, Executive Director of the Legal Aid Association of California, expressed strong support for maintaining the current size of the Legal Services Trust Fund Commission at 24 members and for filling the vacancies. She supports the fee increase, but is unsure how the discount would apply to the new fees, and believes that clarification on that issue would be helpful. She asked whether there could be an option to pay the one-time fee increase over the course of several years.

*Tristan Buckley:* Mr. Buckley, a lawyer, addressed the fee increase. He referred to the discussion of State Bar employee salaries in the 2016 state audit. He compared the State Bar budget to that of cities and states. He believes it is unfair to increase licensee fees.

*Wayne Spindler:* Mr. Spindler, a lawyer, spoke about becoming an attorney and how it changed his life. He commented that it was not an easy process and spoke about the significance of his bar card.

## **10 MINUTES**

January 25, 2019, Open Session Minutes – Adopted

## **30 CHAIR’S REPORT - ORAL**

## **40 STAFF REPORTS**

### **41 Executive Director**

#### **1. Report from Executive Director – *Informational***

**50 CONSENT** – Collectively Deemed Approved by Unanimous Consent, except 50-1, pulled from Consent by SeLeague.

**50-1 Approval for Specified Contracts Pursuant to Business and Professions Code Section 6008.6**

1. For Los Angeles Office Security Services, with: Universal Protection Services
2. For Internet Service Provider, with: AT&T
3. For Salesforce Development Services, with: Slalom
4. For Annual Salesforce Licensing, with: Salesforce.com, Inc.
5. For Microsoft Enterprise Products, with: Crayon Software Experts, LLC
6. For Communications & Public Relations Services, with: Rise Communications LLC
7. For Accounting Services, with: Olivier Flewellen

**It is recommended that the Board of Trustees approve the following resolution:**

**RESOLVED**, that the Board of Trustees approves execution of the contracts listed herein.

Moved by Mendoza, Seconded by Steinbrecher.

Yes – Broughton, Chen, Delen, Duran, LaBran, Manning, Mendoza, Perttula, Steinbrecher

No – N/A

Abstain – SeLegue (recused based on firm's representation of AT&T)

Motion passes.

**50-2 Annual Report on Use of Outside Counsel for 2018 Calendar Year – *Informational***

**50-3 Form 700 Reporting Requirements for Rule 2201 Administrator and Special Deputy Trial Counsel: Request for Approval**

**It is recommended that the Board of Trustees approve the following resolution:**

**RESOLVED**, that the Board of Trustees adopts the recommendation that the Special Deputy Trial Counsel Administrator and Special Deputy Trial Counsel comply with the Form 700 filing requirements, be subject to disclosure categories 2 and 13 of the Conflict of Interest Code for Designated Employees of the State Bar of California, and that the Special Deputy Trial Counsel Administrator and Special Deputy Trial Counsel make disclosures pursuant to category 13 as if their positions were specifically enumerated in Business and Professions Code section 6038, effective April 1, 2019.

#### **50-4 Receipt and Filing of Legislatively Mandated Diversity Efforts Report**

**It is recommended that the Board of Trustees approve the following resolution:**

**RESOLVED**, that the Board of Trustees receive and file the Diversity & Inclusion Plan: 2019-2020, Biennial Report to the Legislature.

#### **50-5 Receipt and Filing of Legislatively Mandated Lawyer Assistance Program Oversight Committee Report**

**It is recommended that the Board of Trustees approve the following resolution:**

**RESOLVED**, that the Board of Trustees receive and file the 2018 Lawyer Assistance Program Annual Report.

#### **54-121 Technical Corrections to Rules of Procedure 5.152, 5.65.1, 5.342: Request for Approval**

**It is recommended that the Regulation and Discipline Committee and Board of Trustees approve the following resolution:**

**RESOLVED**, that the Board of Trustees hereby adopts the technical amendments to Rules 5.152, 5.65.1 and 5.342 of the Rules of Procedure of the State Bar, as set forth in Attachment A; and it is

**FURTHER RESOLVED**, that the amendments to the Rules of Procedure of the State Bar are effective March 15, 2019.

#### **54-141 Q4 Investment Report and Client Security Fund (CSF) Report**

**The staff recommends that the Board of Trustees approve the following resolution:**

**RESOLVED** that the Board of Trustees approve the 2018 Fourth Quarter Financial Report in the form this day before the Board, for the twelve months ended December 31, 2018, as certified by the Chief Financial Officer, and on file with the San Francisco office of the State Bar.

#### **54-142 Review Cost Allocation Policy**

**It is recommended that the Finance and Planning Committee and Board of Trustees approve the following resolution:**

**RESOLVED**, that the Board of Trustees adopt the Cost Allocation Policy articulated in Attachment A.

**54-181 Q4 Board and Management Travel Expenses – *Informational***

**100 REPORTS OF BOARD COMMITTEES**

**110 Board Executive Committee**

**112 Approval of 2019 Legislative Priorities**

**It is recommended that the Board Executive Committee and Board of Trustees approve the following resolution:**

**RESOLVED**, that the Board Executive Committee and the Board of Trustees approve the State Bar's 2019 Legislative Priorities included in this item, **except the proposed amendments to Business and Professions Code Section 6093.5.**

Moved by Duran, Seconded by Mendoza.

Yes – Broughton, Chen, Delen, Duran, LaBran, Manning, Mendoza, Perttula, Steinbrecher

No – N/A

Abstain – SeLeague

Motion passes.

**113 Approval and Ratification of Revised Board Book**

**It is recommended that the Board Executive Committee and Board of Trustees approve the following resolution:**

**RESOLVED**, that the Board Executive Committee approves and the Board of Trustees ratifies the revised Board Book; and it is

**FURTHER RESOLVED**, that the revised Board Book adopted and ratified at this time supersedes and replaces the old Board Book with the exception of Appendix G (Subentity Charters), ~~and~~ Appendix J (Conflict of Interest Policy Authority), **Section 7.4 (State Bar Court)**, which material in the old Board Book will remain in effect until those two-appendices **and one section** are adopted and ratified at future Board Executive Committee and Board of Trustees meetings; and it is

**FURTHER RESOLVED**, that the effective date of the revised Board Book adopted and ratified at this time will be March 16, 2018; and it is

**FURTHER RESOLVED**, that Trustees Joanna Mendoza and Sean SeLeague are authorized to work with staff on non-substantive changes to finalize the revision

which may be placed on a consent agenda of the Board of Trustees at a future meeting for ratification.

Moved by SeLegue, Seconded by Perttula.

Yes – Broughton, Chen, Delen, Duran, LaBran, Manning, Mendoza, Perttula, SeLegue, Steinbrecher

No – N/A

Motion passes.

### **130 Programs Committee**

#### **131 Adoption of Revised Goal 4 Re Diversity and Inclusion**

**It is recommended that the Programs Committee and Board of Trustees approve the following resolution:**

**RESOLVED**, that the Board of Trustees approve revising Goal 4 of the State Bar 2017-2022 Strategic Plan to read: Goal 4. Support access to legal services for low- and moderate-income Californians and promote policies and programs to **eliminate bias and promote an inclusive environment in the legal system and for the public it serves, and strive to achieve a** ~~ensure that the statewide attorney population matches~~ **that reflects** the rich demographics of the state's population.

Moved by Chen, Seconded by Delen.

Yes – Broughton, Chen, Delen, LaBran, Manning, Mendoza, Perttula, SeLegue, Steinbrecher

No – N/A

Motion passes.

#### **132 Approval of Distribution of Bank Grant Funds for 2020-2022 Grant Cycle**

~~**It is recommended that the Programs Committee and Board of Trustees approve the following resolution:**~~

~~**RESOLVED**, that the Board of Trustees approve distribution of \$6.5 million of the remaining BCSR funds for statewide and regional foreclosure prevention and community redevelopment collaborations; and it is~~

~~**FURTHER RESOLVED**, that the State Bar award up to \$2.17 million annually for three years using a competitive RFP process as outlined in this agenda item, with projects commencing January 2020 and concluding December 31, 2022.~~

**NOTE:** No action was taken by the Programs Committee on the above recommended resolution; therefore this resolution was not brought to a vote by the Board. Instead, the Board approved the following resolution:

**Resolved**, that the Board of Trustees delegate to the Programs Committee the authority to make a final decision on the Bank Grant RFP.

Moved by SeLegue, Seconded by Mendoza.

Yes – Broughton, Chen, Delen, Duran, LaBran, Manning, Mendoza, Perttula, SeLegue, Steinbrecher

No – N/A

Motion passes.

## **700 MISCELLANEOUS**

### **701 Approval of Appendix I Subentity Recommendations Re (1) Legal Services Trust Fund Commission - Size and Appointments; and (2) Implementation of Global Changes, Including State Bar Rule Revisions**

**It is recommended that the Board of Trustees approve the following resolution:**

**RESOLVED**, that the Board of Trustees authorize staff to make available for public comment for a period of 45 days the proposed State Bar Rules that will effectuate the changes to the operation of the California Board of Legal Specialization, shown in mark-up text in Attachment A; and it is

**FURTHER RESOLVED**, that the Board of Trustees retain the size of the Legal Services Trust Fund Commission at 21 voting members and 3 non-voting judicial advisors, and retain the distribution of appointments as between the State Bar and the Judicial Council; and it is

**FURTHER RESOLVED**, that the Board reappoint to the LSTFC for one term, effective immediately, the following Commissioners who termed off the Commission in 2018:

- Richard Reinis
- Susan Ryan (formerly a Judicial Council Appointee)

- Kim Savage
- Christina Vanarelli; and it is

**FURTHER RESOLVED**, that the Board of Trustees appoint to the LSTFC the following for one term, effective immediately:

- Pamela Bennett, Public member
- Erica Connolly, Attorney member; and it is

**FURTHER RESOLVED**, that the Board of Trustees appoint Corey Friedman and Christian Schreiber as Co-Chairs and Banafsheh Akhlaghi and Eric Isken as Co-Vice-Chairs; and it is

**FURTHER RESOLVED**, that the Committee on Professional Responsibility and Conduct be reduced from 16 members to 12 members, through attrition.

Lee recused himself from discussion of this item. There was no cause to abstain from voting because the Chair votes only to break or create a tie.

Moved by Mendoza, Seconded by Broughton.

Yes – Broughton, Chen, Delen, Duran, LaBran, Manning, Mendoza, Perttula, SeLegue, Steinbrecher

No – N/A

Motion passes.

## **702 Update on Waiver of Late Payment Penalties for Federal Employees; Approval of Schedule for Payment of Fees Due**

**It is recommended that the Board of Trustees approve the following resolution:**

**RESOLVED**, that the Board of Trustees approve the waiver of any 2019 licensing fee late payment penalty where the requester has provided proof, prior to the July 1, 2019 final payment deadline, to the satisfaction of staff that they are or were a federal employee who was impacted by the partial government shutdown; and it is

**FURTHER RESOLVED**, that federal employees remain subject to the July 1, 2019, final payment deadline for annual licensing fees applicable to all other licensees.

Moved by Duran, Seconded by Delen.

Substitution of the Roll Call.



Motion passes.

### **703 Report and Recommendation Re Legislatively Mandated Malpractice Insurance Working Group Report**

**It is recommended that the Board of Trustees approve the following resolution:**

**RESOLVED**, that the Board of Trustees approve and accept the attached Report from the Malpractice Insurance Working Group; and it is

**FURTHER RESOLVED**, that the Board of Trustees direct staff to submit the Report from the Malpractice Insurance Working Group to the Supreme Court and Legislature, in compliance with Business and Professions Code Section 6069.5; and it is

**FURTHER RESOLVED**, that the Board of Trustees direct staff to develop options for implementation and an analysis of the cost of implementation, of certain of the recommendations included in the MIWG Report, as identified above, for delivery to the Board of Trustees at its meeting in July.

This matter was taken out of order. It preceded item #112.

Moved by Steinbrecher, Seconded by Perttula.

Yes – Broughton, Chen, Delen, Duran, LaBran, Manning, Mendoza, Perttula, SeLegue, Steinbrecher

No – N/A

Motion passes.

### **704 Report on Fee Increase Need**

**It is recommended that the Board of Trustees authorize staff to pursue an on-going General Fund licensing fee increase of up to \$100 with an annual CPI adjustment, a one-time General Fund special assessment of up to \$250, and a one-time Client Security Fund assessment of up to \$80, effective January 1, 2020. While these figures do not align with identified need in every instance to the dollar, the variances are de minimis in any given year and certainly over the five-year Forecast period. Further, staff believes that \$100, \$250, and \$80 serve as clear, digestible, and defensible numbers which will easily facilitate stakeholder discussions regarding licensee fee increases. It is also recommended that the Board of Trustees authorize staff to incorporate one or more scaling options into the fee increase methodology and related advocacy.**

**Should the Board of Trustees concur with staff's recommendation, the following resolution would be approved:**

- 1. RESOLVED**, that the Board of Trustees hereby authorize staff to pursue an on-going General Fund licensing fee increase of up to \$100 plus an annual CPI adjustment, a one-time General Fund special assessment of up to \$250, and a one-time Client Security Fund assessment of up to \$80, effective January 1, 2020 as presented to the Board this day; and it is
- 2. FURTHER RESOLVED**, that the Board of Trustees hereby authorizes staff to **work with Chair and Vice Chair to finalize the scaling methodology**; and it is
- 3. FURTHER RESOLVED**, that the Board of Trustees hereby authorizes staff to seek a multi-year fee bill in consultation with legislative and other stakeholders.

**Resolutions #1 (fee increase and assessments) and #3 (multi-year fee bill)**

Moved by SeLeague, Seconded by Mendoza.

Yes – Broughton, Chen, Delen, Duran, LaBran, Mendoza, Perttula, SeLeague, Steinbrecher

No – N/A

Motion passes.

**Resolution #2 (scaling)**

Moved by Steinbrecher, Seconded by SeLeague.

Yes – Broughton, Chen, Delen, Duran, LaBran, Manning, Perttula, SeLeague, Steinbrecher

No – N/A

Abstain – Mendoza (recused)

Motion passes.

**ADJOURNED**