

President Courtade called the meeting to order at 1:30 p.m. on Wednesday, September 18, 2013, at the Lansing Center, Governor's Room in Lansing

Commissioners present:

Kathleen M. Allen	Felicia O. Johnson
Dennis M. Barnes	C. Thomas Ludden
David R. Brake	Maureen M. McGinnis
Robert J. Buchanan	Lawrence P. Nolan, Treasurer
Lori A. Buiteweg, Secretary	Colleen A. Pero
Margaret A. Costello	Hon. Michael J. Riordan
Bruce A. Courtade, President	Brandy Y. Robinson
Richard L. Cunningham	Donald G. Rockwell
Brian D. Einhorn, President-Elect	Thomas C. Rombach, Vice President
Hon. James N. Erhart	Hope V. Shovein Grazini
D. Randall Gilmer	Richard J. Siriani
Stephen J. Gobbo	Julie A. Sullivan
Jennifer M. Grieco	Gregory L. Ulrich
Edward L. Haroutunian	Dana M. Warnez
Charles S. Hegarty	Vanessa Peterson Williams

Commissioners Absent and Excused

Commissioner Jules B. Olsman was absent and excused.

State Bar Staff present:

Janet Welch, Executive Director  
Marge Bossenbery, Executive Coordinator  
Gregory Conyers, Director, Diversity  
Candace Crowley, Director, External Development  
Peter Cunningham, Director, Governmental Relations  
Dawn Evans, Director, Professional Standards  
Cliff Flood, General Counsel  
Danon Goodrum-Garland, Investigative Counsel  
James Horsch, Director, Finance and Administration  
Lynn Ingram, Program Development and Communications Manager  
Nkrumah Johnson Winn, Service Counsel  
Robert Mathis, Pro Bono Service Counsel  
Samatha Meinke, Communications Specialist  
Anne Smith, Administrative Assistant  
Anne Vrooman, Director, Research and Development

Guests

Justice Brian Zahra, Justice of Michigan Supreme Court  
Elizabeth Johnson, Former Chair of the Representative Assembly  
Victoria A. Radke, Incoming member of the Board of Commissioners  
E. Thomas McCarthy, Incoming member of the Board of Commissioners  
Danielle M. Brown, Incoming member of the Board of Commissioners  
Jeffrey Kirkey, Education Director, ICLE  
Bret Seely

Justice Zahra introduced the newly appointed MI Supreme Court Commissioner, Ms. Danielle M. Brown.

### **Consent Agenda**

A motion was offered and seconded to remove the President's and Executive Director's activities from the consent agenda. Motion carried.

The Board received the minutes from the July 26, 2013 Board of Commissioners meeting and the July 16 and August 20, 2013 Executive Committee meetings.

The Board received the FY 2013 Financial Reports through July 2013.

The Board received the Client Protection Fund Claims.

The Board received the Unauthorized Practice of Law ("UPL") Complaints Proposed for Litigation.

A motion was offered and seconded to approve the consent agenda. Motion passed.

A motion was offered and seconded to approve the President's and the Executive Director's recent activities as amended. The motion passed.

## **COMMISSIONER COMMITTEES**

**Finance**, Lawrence P. Nolan, Chairperson

FY2013 Financial and Investment Update

Mr. Nolan presented the Board with a FY 2013 Financial and Investment update.

Mr. Nolan recognized the work of the 2012-2013 Finance committee members.

**Professional Standards**, Lori A. Buiteweg, Chairperson

Ms. Buiteweg recognized the work of the members of the 2012-2013 Professional Standards committee members.

**Programs and Services**, Thomas C. Rombach, Chairperson

Mr. Rombach updated the Board on the impact that the Affordable Care Act will impact the SBM members.

Mr. Rombach recognized the work of the members of the 2012-2013 Programs and Services committee members.

**Public Policy, Image and Identity**, Brian D. Einhorn, Chairperson

The Board received a written report from Justice Initiatives.

The Board received Legislative Update from Nell Kuhnmuensch, Governmental Consultant Services, Inc.

Court Rules Proposals

Old Business

**ADM File No. 2012-30 - Proposed Amendments of Rule 2.621 and Rule 2.622 of the Michigan Court Rules**

The proposed amendments of MCR 2.621 and MCR 2.622 were submitted to the Michigan Supreme Court on behalf of the "Receivership Committee" (a committee created because of a need identified by the Debtor/Creditor Rights Committee of the Business Law Section of the State Bar of Michigan) to expand and update the rules regarding receivership proceedings.

The committee recommends that no reconsideration be taken on this amendment.

New Business

**ADM File No. 2012-23 - Proposed Amendment of Rule 8.109 of the Michigan Court Rules**

The proposed amendment of MCR 8.109 would provide explicit authority for courts to use audio and video recording equipment to make a record of court proceedings and that trial courts using recording equipment would be required to follow the standards relevant to recording of proceedings that are published by the State Court Administrative Office.

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

**ADM File No. 2012-26 - Proposed Amendment of Rule 8.111 of the Michigan Court Rules**

This proposal would clarify that the reassignment requirement applies regardless whether the court is acting in the capacity of a trial court or as an appellate court, such as a circuit court considering an appeal of a district court or probate court determination.

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

**ADM File No. 2013-10 - Proposed Amendments of Rules 2.107 and 2.117 of the Michigan Court Rules**

The proposed amendment of MCR 2.107 would provide clarification by adding the term "order" so that after either a final judgment or order has entered, papers should be served on the party after the time for appeal has passed. The proposed amendment of MCR 2.117 would clarify that when an attorney appears in an action by filing or defending a post judgment motion, the duration of the attorney's appearance would be the same as that of an attorney filing or defending the original pleadings.

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

Legislation

**HB 4933** (Heise) Occupations; attorneys; eligibility criteria for foreign attorney admission to the bar without examination; modify residency requirement. Amends sec. 946 of 1961 PA 236 (MCL 600.946).

A motion was offered and seconded to support this legislation. The motion passed.

**H.R. 2509 and S. 1224: Civil Justice Tax Fairness Act of 2013**

These two identical bills amend the Internal Revenue Code to allow: (1) an exclusion from gross income for amounts received (whether by judgment or settlement, as lump sums or periodic payments) on account of a claim of unlawful discrimination; (2) income averaging for back pay and front pay amounts received from such claims; and (3) an exemption from the alternative minimum tax (AMT) for any tax benefit resulting from the income averaging of amounts received from an unlawful discrimination claim.

These items were tabled until the November meeting.

**LEADERSHIP REPORTS**

**President's Report**, Bruce A. Courtade, President

Mr. Courtade reported that the scheduled meeting with the Officers of the Board of Commissioners and the Supreme Court was cancelled due to a press conference where the Supreme Court rolled out the new rules regarding expanded use of interpreters in Michigan Courtrooms.

Mr. Courtade congratulated Commissioner Charles Hegarty on his appointment to the Wayne County Circuit Bench.

Mr. Courtade informed the Board that the Bar submitted to the Secretary of State a letter asking Secretary of State Johnson to revisit the issue of whether donations to issue ad campaigns basically in judicial elections should be revisited and whether those donations should face mandatory disclosure. He said that this was discussed at the July 16 Executive Committee conference call and discussed before this board on July 26. This action was taken in furtherance of a unanimous vote of the RA which adopted a policy position in favor of full disclosure in judicial campaigns. That vote was taken in September 2010. It was also consistent with the recommendations of the Campaign Finance workgroup that was appointed in the wake of the Oakland County Circuit Court elections. The workgroup came back and encouraged the Board and the staff to place emphasis on this issue and to make it a priority. It received a little bit of coverage. There is a posting on the SOS website and open for public comment.

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

**Indigent Criminal Defense Update**

Ms. Welch reported that the names of Ms. Nancy Diehl, Ms. Brandy Robinson and Mr. Dennis Clark were submitted by the State Bar to the Governor's office for consideration for his appointment to the Indigent Criminal Defense Commission. The Governor will select one of the names for appointment.

**Free Section Membership**

Ms. Welch explained the proposal for automatic free membership.

A motion offered and seconded to approve the proposal to rescind automatic free memberships. The motion passed.

Other

Ms. Welch reported on a letter from Mr. Brad Vauter, out-going Chair of the Elder Law Section, expressing concerns about the Michigan Legal Help On Line.. The letter was addressed to Ms. Linda Rexer, Executive Director of the Michigan State Bar Foundation, Ms. Angela Tripp, Administrator of Michigan Legal Help and Ms. Welch. The three have responded jointly informing Mr. Vauter that they appreciated his input and that ongoing dialogue with the Elder Law, Probate and Family Law sections is taking place.

Ms. Welch informed the Board of two resolutions recognizing Michigan Patriot Week.

Ms. Welch reported that there as a result of torrential rain in the Lansing area last week, the Garden Level of the State Bar was flooded. Ms. Welch indicated that the employees were relocated to the PMRC Education Center while repairs were taking place.

**Representative Assembly (RA) Report**, Dana M. Warnez, Chairperson  
September 19 RA Meeting

Ms. Warnez invited the Board to attend the morning session of the RA as the recipients of the RA awards are honored.

**American Bar Association (ABA) Report**

Mr. Courtade gave the Board an overview of the meetings that take place during the American Bar Association Annual Meeting in August.

**Young Lawyers Section Report (YLS)**, Felicia O. Johnson, Chairperson

Ms. Johnson provided the Board with an update on the activities of the Young Lawyers Section.

## **SPECIAL PRESENTATIONS**

### **Recognition of Retiring Board Members**

Dana M. Warnez written and presented by Kathleen M. Allen  
Hon. James N. Erhart written and presented by Hon. Michael J. Riordan  
Hon. Charles S. Hegarty written and presented by Dennis M. Barnes  
Brandy Y. Robinson written and presented by Felicia O. Johnson  
Julie A. Sullivan written and presented by Gregory L. Ulrich

A motion was offered and seconded to approve the resolutions as written. Motion passed.

### **Recognition of President Bruce A. Courtade**

Mr. Einhorn gave remarks about President Courtade and presented him with a plaque and scrapbooks.

### **Comments from Commissioners**

There were none.

### **Adjournment**

The meeting was adjourned at 3:30 p.m.