

The meeting was called to order by President Cranmer at 9:30 a.m. on Friday, January 20, 2006, at the State Bar of Michigan, Lansing, Michigan. Commissioners present were:

Lori A. Buiteweg, Assembly Chairperson	Ronald D. Keefe, Vice President
Kimberly M. Cahill, President-Elect	Jeffrey Kirkey
John J. Conway	Craig H. Lubben
Margaret A. Costello	Richard D. McLellan
Bruce A. Courtade	Lambro Niforos
Thomas W. Cranmer, President	Edward H. Pappas, Secretary
Francine Cullari	Kurt E. Schnelz
Richard L. Cunningham	Scott C. Strattard
Julie I. Fershtman	Laurin C. Roberts Thomas
Kiffi Y. Ford	Angelique Strong Marks
Robert C. Gardella	Charles R. Toy, Treasurer
Edward L. Haroutunian	Gregory L. Ulrich
Michael S. Hohaus	Debra A. Walling
W. Anthony Jenkins	Rodger D. Young
Allyn D. Kantor	

Commissioners Brian D. Einhorn, Elias J. Escobedo, Jr, and Hon. William B. Murphy were absent and excused.

State Bar Staff Present:

Kari Brandel, Events Planner
Nancy Brown, Director of Communications
Gregory Conyers, Program Administrator
Candace Crowley, Justice Initiatives Manager
Traci Dinehart, Receptionist
Clifford Flood, Deputy General Counsel
Kathleen Fox, Director of Programs and Services
JoAnn Hathaway, PMRC, Program Administrator
James Horsch, Director of Finance and Administration
Kristine Kowalski, Administrative Assistant
Victoria Kremski, Deputy Regulation Counsel
Elizabeth Lyon, Public Policy Program Analyst
Susan McMann, Sections and Committees Coordinator
Dawn Evans, Director of Professional Standards
Jerome Reide, Director of Justice Initiatives
Chad Sluss, Member Services Manager
Anne Smith, Administrative Assistant
Lesa Smith, Program Administrator
Naseem Stecker, Media Specialist
Janet K. Welch, General Counsel

Guests:

Marge Bossenbery
Dave Charron
Hon. Charles Miel
Vince Romano

CONSENT AGENDA

A motion was made, seconded, and carried to remove item IX Section Compensation from the Consent Agenda and to approve the remaining items in the Consent Agenda

Minutes

The Board approved the minutes of the November 18, 2005 Board meeting.

The Board accepted the minutes of the following Executive Committee meetings:

November 28, 2005
December 12, 2005
December 19, 2005
January 3, 2006
January 16, 2006

President's Report, Thomas W. Cranmer, President

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

Executive Director's Report, John T. Berry, Executive Director

The Board received a memo regarding Section Compensation prepared by Janet Welch

Finance and Human Resources, Charles R. Toy, Chairperson

No report was provided

Professional Standards Committee, Edward H. Pappas, Chairperson

No report was provided

Programs and Services Committees, Ronald D. Keefe, Chairperson

No report was provided.

Public Policy, Image and Identity, Kimberly M. Cahill, Chairperson

No report was provided.

Section Bylaw Proposed Amendments

The proposed amendments of the Law Practice Management section were approved. The proposed amendments of the Alternative Dispute Resolution section were approved.

OTHER REPORTS

President Cranmer noted the practice of hearing from Sections and Committees and recognized Chair of the Jury Instructions, Standard Criminal Committee, Chief Judge Charles Miel, for a committee update. Mr. Cranmer also recognized Chair of the Real Property Law Section, Dave Charron, for a section report.

LEADERSHIP REPORTS

President's Report, Thomas W. Cranmer

Contact with the Court and Affiliated Bar Associations

President Cranmer reported that the meetings and contacts he has with members of the judiciary are ongoing and have been well received. He continues to promote the SBM at each of his speaking engagements and talks with pride about the various programs that the Bar offers. Lori Buiteweg, Representative Assembly (RA) Chair, has been attending many engagements with President Cranmer to inform the groups about what the RA is doing.

Executive Office Coverage

President Cranmer reported on the Executive Director's anticipated 3-6 week absence due to surgery, and the arrangements for management during his absence.

Practice Management Resource Center (PMRC)

The impending February 1 opening of the PMRC is favorably anticipated. Dawn Evans updated the Board on progress.

Other

President Cranmer indicated that Board members are allowed reimbursement for mileage as part of their duties as a commissioner and recognized that there is one commissioner who donates mileage checks back to the Access to Justice Fund and suggests that everyone consider emulating that practice.

Executive Director's Report, Janet Welch

Compensation Paid by Sections

The Board discussed potential differences in interpretation and ambiguities concerning the following provision in the Supreme Court Rules Concerning the State Bar of Michigan (Rule 9):

"No officer, member of the Board of Commissioners, member of the Representative Assembly, or member of a committee or section of the State Bar of Michigan shall receive compensation for services rendered in connection with the performance of his or her duties. They may, however, be reimbursed for the necessary expenses incurred in connection with the performance of their duties."

It was decided to solicit the views of the sections on their interpretation of and experience with the provision. Pending an analysis of the responses and further action, the Finance division will process invoices for payments to section members not clearly in violation of Rule 9.

New Hires

Jim Horsch introduced Tracie Dinehart, Part-time receptionist
Janet Welch introduced Cliff Flood, Deputy General Counsel
Kathleen Fox introduced Marge Bossenbery, Executive Coordinator

Representative Assembly Chairperson's Report, Lori A. Buiteweg, Chairperson

Lori thanked Tom for the opportunity to attend meetings with him and encouraged future presidents to do the same. She indicated that attending these meetings is a great way for the Chair to keep an ear to the ground to determine how to increasing the value of RA meetings. Lori plans to provide educational and networking opportunities to the RA members at future meetings.

COMMISSIONER COMMITTEES

Finance Committee, Charles R. Toy, Chairperson

Discussion of the Annual Audit and Management Letter

The Finance Committee received this report from Plante Moran. Jim Horsch and the Finance Department are working on the management of these suggestions.

YTD Financial Reports through November 30, 2005

The YTD Financial Reports have not been disseminated, but yet the year-end financial forecast is included the BOC packet for review.

Designate an additional \$224K in net assets for retirement health care liability

The Finance Committee reviewed the potential designation of an additional \$224K in net assets for the retirement health care liability at their meeting, but decided to defer this item for further discussion and will be working on a proposal to bring to the Board of Commissioners at a future meeting

Transfer of funds from short-term investments to long-term investments

This item is for informational purposes only. The Finance Committee approved a transfer of \$800K from short-term investments to long-term investments in order to earn a higher return, as these funds are not needed in the current operating cycle.

Professional Standards, Edward H. Pappas, Chairperson

No report at this meeting.

Programs and Services, Ronald D. Keefe, Chairperson

Office Supply – Staples Agreement

The committee recommends that the State Bar select Staples the preferred vendor for office supplies for members. A motion was made to approve this recommendation pending counsel's approval of the contract. The motion was approved.

ABA Book Discount

A discount was offered to SBM members and brought to the committee at this morning's meeting that recommend that this be accepted. A motion was made to approve this recommendation pending counsel's approval of the contract. The motion was approved.

I.C.L.E. – Solo & Small Firm Institute

The Programs & Services Committee recommended to the Board of Commissioners that the SBM contribute \$20K to ICLE to assist with their planning of the Solo and Small Firm Institute. Along with contributing the money there is a recommendation to merge the Solo and Small Business Firm Institute with the SBM Annual meeting in 2007. Due to Commissioner Kirkey's employment with ICLE, and possible notice requirements, a vote was not taken on this recommendation at this time.

Public Policy, Image and Identity, Kimberly M. Cahill, Chairperson

Image and Identity

Kim Cahill discussed the image and identity of the SBM and indicated that the committee is not recommending any changes to the name of the entity. She discussed the long-range goals regarding branding issues, and ongoing efforts to monitor compliance.

Court Rules

ADM File No. 2005-02 - Proposed Administrative Order regarding Privacy Policy and Access to Court Records

The Court is considering adoption of the proposed Administrative Order to ensure the confidentiality of social security numbers and management of nonpublic information contained within public documents filed within the judiciary.

Motion to affirm the State Bar's position of general support for the proposed order and authorize the Judicial Council and the Probate and Estate Planning Section's position of opposition. BOC: approved

Legislation

Old

SB 815 (Cropsey) Eviction Representation

Civil procedure; evictions; property managers and other nonlawyers to represent businesses in certain eviction proceedings; allow. Amends 1961 PA 236 (MCL 600.101 - 600.9947) by adding sec. 5707.

No action required

New

HB 4467 (Condino) Children Sex Victims

Civil procedure; statute of limitations; civil action for damages resulting from criminal sexual conduct against a minor; extend tolling of statute of limitations. Amends sec. 5851 of 1961 PA 236 (MCL 600.5851).

Tabled – more info to be reported at the next meeting BOC: no action required

HB 5267 (Mortimer) Mandatory Joint Custody

Family law; child custody; joint custody; mandate in every custody dispute between parents except in certain circumstances. Amends sec. 6a of 1970 PA 91 (MCL 722.26a).
Oppose in Principle BOC: adopted

HB 5421 (Pavlov) Armed Sexual Assault

Criminal procedure; sentencing; penalties for certain sex offenders; clarify. Amends sec. 520b of 1931 PA 328 (MCL 750.520b). TIE BAR WITH: HB 5422'05
Oppose in Principle – The bill limits judicial discretion. If the aim is to allow these factors to be considered, then sentencing guidelines can be modified that would allow for judges to consider these factors, thus maintaining discretion. BOC: Adopted

Biennial Review of Judicial Resources

HB 5374 (Van Regenmorter) Revise Number of Judgeships

Courts; judges; number of judgeships in various circuits and districts; revise. Amends secs. 507, 508, 517, 518, 542, 549a, 549g, 803, 8134 & 8135 of 1961 PA 236 (MCL 600.507 et seq.).

SB 907 (Cropsey) Revise Number of Judgeships

Courts; judges; number of judgeships in various circuits and districts; revise. Amends secs. 507, 508, 517, 518, 549a, 549g, 803, 8134 & 8135 of 1961 PA 236 (MCL 600.507 et seq.).
No position – encourage local bars and section with direct interest to advocate, consistent with historical actions.
BOC: no action required

SJR G (Goschka) Sex Offender Bail

Constitutional amendments; state; court to deny release on bail for felony involving sexual assault of minor; amend state constitution to allow. Amends sec. 15, art. I of the state constitution.
Oppose in principle – This action is better addressed in statute, advise Senator Goschka to refer to statute 600.765 (5). BOC: Adopted

The Sedona Guidelines: Best Practices Addressing Protective Orders, Confidentiality & Public Access in Civil Cases

Information was included in the Board packet.

OTHER REPORTS

Presidents Advisory Council, Kurt E. Schnelz

Succession Planning Recommendation

The formalized succession planning for Executive Director should be updated annually. Succession plans for division directors should be part of an annual report on staffing by the Executive Director. BOC: Approved

State Bar Education Initiative Recommendation – Allyn Kantor

The Council views this initiative as an opportunity for the Bar to serve as leaders in supporting the efforts to improve Michigan's educational system. Motion to refer this item to the Public Policy, Image and Identity Committee to determine how best the Bar could promote the improvement of the quality of education offered in the State of Michigan. BOC: Approved.

Disaster Response Plan Recommendation

The Bar should create a disaster plan for law firms (primarily small firms), in the event of catastrophic occurrences. Similarly, a disaster recovery plan for SBM should be finalized. A motion was made that this issue be referred to the Professional Standard Committee for review and recommendations developed with regard to a disaster relief plan for both the SBM and for law firms. BOC: Approved.

Grandfathering of Officers of the State Bar or extension of Term Limitations - Recommendation

The President should appoint a separate committee consisting of individuals who have no interest in becoming an officer to review the entire election process and recommend whether to make changes concerning grandfathering or term limit extension. Motion made to review the election process of officers in general. BOC: Approved.

Interaction with Law Schools Recommendation

The creation of a new SBM section including the judiciary, law school professionals as well as lawyers at large should be considered to increase the interaction of the State Bar with law schools. BOC: Adopted

ABA Report, W. Anthony Jenkins

No report. The ABA Mid Winter Meeting will take place in February.

Committee on Justice Initiatives, Richard McClellan

The CJI committee is calling for proposals to determine areas of need. Packets of materials have been sent to internal and external groups as appropriate. The committee will follow up on areas of need for proposal development.

The work to create a Michigan Bar Journal edition in May dedicated to Justice Initiatives is underway. Articles are being received from Pro Bono, Equal Access, Justice Policy and Resource Development, which are all a part of the Committee for Justice Initiatives. This issue marks the first time in more than eight years that the State Bar of Michigan has explored access to justice issues in a full edition of the Journal.

The committee has discussed taking a position on the Michigan Civil Rights Initiative/Anti-Affirmative Action ballot proposal, but believe that is not Keller-permissible. The committee recognizes that this will be of interest to many members and is interested in exploring the ways in which SBM might participate in education concerning the proposal, within Keller limits.

Young Lawyers Section Report, Jeffrey E. Kirkey, Chairperson

Jeff Kirkey informed the Board members of YLS activities, including a swearing-in at the U.S. Supreme Court, volunteer work during the holidays at shelters to provide meals over 1600 individuals, and seminars on establishing client relationships, cosponsored by the Business Law section.

FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

Comments or questions from Commissioners

Kim Cahill (stepping in for Tom who was out of room momentarily) asked for comments or questions.

Commissioner Hohausler complimented Kathleen Fox and Chad Sluss on the quality of staff presentation to the Programs and Services committee concerning the office supply preferred vendor. He also urged close review of the Civil Rights Initiative.

Francine Cullari encouraged members to assist less fortunate, and called for Board members to put forward deserving candidates for the Bar Journal feature on citizen lawyers.

Comments or questions from the Public

President Cranmer asked for comments or questions from the public, but there were none.

Old Business

There was none.

New Business

There was none.

Executive Session

The Board of Commissioners went into Executive Session. The meeting was adjourned at 1:20 p.m.