

The meeting was called to order by President Turner at 9:40 a.m. on Friday, April 25, 2003, at the State Bar of Michigan, Lansing, Michigan. Commissioners present were:

Scott S. Brinkmeyer, President-Elect	Craig H. Lubben
Kimberly M. Cahill, Treasurer	Stephen J. Murphy, III
Thomas W. Cranmer	Hon. William B. Murphy
Kathryn M. Day	Lambro Niforos
Nancy J. Diehl, Vice President	Edward H. Pappas
Evanne L. Dietz	Randolph P. Piper
Kim Warren Eddie	Thomas G. Plunkett
James N. Erhart	D. Andrew Portinga
Elias J. Escobedo, Jr.,	Thomas C. Rombach, Assembly Chair
Dennis P. Grenkowitz	Kurt E. Schnelz
Michael S. Hohausner	Hon. Cynthia D. Stephens
Elizabeth A. Jamieson	Charles R. Toy
Ronald D. Keefe	Reginald M. Turner, President
Daniel M. Levy, Assembly Vice-Chair	Gregory L. Ulrich

Commissioners John M. Barr, Marjory G. Basile, Hon. Joseph J. Farah and W. Anthony Jenkins were absent and excused.

State Bar Staff Present:

John T. Berry – Executive Director
Lisa Allen-Kost – Director, Programs & Services
Nancy Brown – Director, Communications
Thomas K. Byerley – Director, Professional Standards
Candace A. Crowley – Access to Justice Manager
Kathleen G. Fox – Director, Human Resources
Marian S. Frane – Manager of Financial Services
James C. Horsch – Director, Administration and Finance
William M. Kramer, III – Manager of Information Services & Technology
Roberta M. Lott – Administrative Assistant
Glenna D. Peters – Executive Coordinator
Janet K. Welch – General Counsel
Lorraine Weber – Open Justice Consultant
Karen Williams – Sections Coordinator

Present for such portions of the meeting as pertained to a specific agenda item were Becky Bechler of Public Affairs Associates; Julie I. Fershtman, 2001-02 Representative Assembly Chairperson; Evelyn C. Tombers, Professor of Law at Thomas M. Cooley Law School and immediate past chair of the State Bar of Michigan's Appellate Practice Section.

CONSENT AGENDA

A motion was made and seconded to remove Recognition of the Northwestern Michigan Senior Bar Association from the consent agenda.

A motion was made and seconded to remove Payment of Claim from the Client Protection Fund.

A motion was made and seconded to approve the Consent Agenda as amended. Motion carried.

Minutes

The Board approved the minutes of the November 22, 2003 and January 17, 2003 Board meetings.

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

- January 6, 2003
- February 3, 2003
- February 20, 2003
- March 3, 2003

President's Report – Reginald M. Turner, President

The Board received the President's written report.

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

The Board received the Executive Director's written report and the UPL status report.

Professional Standards Committee – Thomas W. Cranmer, Chairperson

The Board approved Character and Fitness Committee appointments for Districts B and F.

Commissioner Liaison Reports – Written reports were received by the following Commissioner Liaisons:

- A. John M. Barr: Committee on Unauthorized Practice of Law, Elder Law & Advocacy Section, Senior Lawyers Section
- B. Marjory G. Basile: Committee on Libraries, Legal Research and Publications, Intellectual Property Law Section
- C. Kimberly M. Cahill: Open Justice Commission, Probate & Estate Planning Section
- D. Kim Warren Eddie: Committee on Criminal Jurisprudence & Practice, Prisons & Corrections Section
- E. Edward H. Pappas: Alternative Dispute Resolution Section
- F. Charles R. Toy: Environmental Law Section, Committee on Character & Fitness

LEADERSHIP REPORTS

President's Report – Reginald M. Turner

Mr. Turner outlined the Michigan Supreme Court order publishing the Representative Assembly dues proposal for comment, along with an alternative proposal. He encouraged commissioners to familiarize themselves with the points of difference and to respectfully advocate for the State Bar's proposal.

He emphasized the importance of noting that the dues proposal is derived directly from the Strategic Plan and the Bar's core mission to improve the administration of justice by helping lawyers to have more efficient and effective practices, to protect the public by improving the quality of the practice of law, and to prevent the unauthorized practice of law.

Representative Assembly Chairperson's Report – Thomas C. Rombach

Mr. Rombach thanked Executive Director John Berry, several staff members and the Assembly leadership for participating in the informational hearings held around the state.

Mr. Rombach reported that at its April 26th meeting, the Assembly will be considering proposed amendments to the Michigan Court Rules regarding medical malpractice actions and summary disposition

that was tabled at the meeting on February 22nd. In addition, Chief Judge William Whitbeck will provide an abbreviated presentation regarding appellate reduction delay, and ABA experts will present information regarding the new model rules of professional conduct, both of which will be for consideration by the Assembly at its September meeting.

Mr. Rombach further noted that the deadline for nominations for the Michael Franck Award and Assembly Clerk is July 25th.

Professional Standards – Thomas W. Cranmer, Chairperson
(President Turner moved this committee report in the agenda order per Chairperson Cranmer's request)

ABA House of Delegates – The Board approved the appointment of Roshunda Price-Harper (incumbent) and Reginald M. Turner, Jr., both of Detroit, for a two-year term beginning at the close of the ABA Annual Meeting in August.

Tom Byerley provided a brief update on Ethics School, a new program developed in conjunction with the Attorney Grievance Commission and the Attorney Discipline Board designed for those who have had a minor grievance filed against them. The first session will be held on May 8, 2003 and approximately 20 participants and 10 faculty members are expected to participate.

The nature of confidentiality was questioned in regard to payment of Client Protection Fund claims, as well as subrogation agreements and collection efforts. Mr. Byerley explained that the Bar is not required to keep the names of the attorneys confidential who have had a claim paid on their behalf but chose to do so following a past claim of slander. Additionally, he reported that we do require subrogation agreements prior to payment of claims and while we pursue the attorneys involved, there is a small recovery rate (~10%).

A motion was made and seconded to approve payment of the following claim: CPF 1774 in the amount of \$3,633.00. Motion carried.

Executive Director's Report – John T. Berry

Mr. Berry provided a brief update on Ethics School and deferred to Division Directors Lisa Allen-Kost, Nancy Brown and Jim Horsch for staff introductions and announcements.

Programs and Services – Chad Sluss, Member Services Manager; Carol Markzon, Events Coordinator;
Finance and Administration – Melanie Jaramillo, Information Systems Analyst; Matthew Cranson, PC Maintenance Technician;

Communications – Sandra Barger, Electronic Publication Coordinator. Sarah Nussbaumer will be leaving her position as Publications Manager, as her husband has been promoted to Associate Dean of Cooley Law School at Oakland University.

Mr. Berry reported that a new security system has been installed. Mr. Berry also reported that he is continuing to meet with sections and committees as often as possible.

Young Lawyers Section – Kathryn M. Day, Chairperson

Ms. Day provided a report on the section's recent and upcoming activities, to include a variety of seminars and a mock interview program. In conjunction with the annual meeting, the section is working to pair a young lawyer with a 50-year honoree, and the Race for Justice is planned for Saturday, September 13, 2003. The section received applause in recognition of their "Imprint" Mentoring Program. The program will receive an award presented in May at the ABA/YLD Spring National Conference in New Orleans.

COMMISSIONER COMMITTEES

Finance and Human Resources – Kimberly M. Cahill, Chairperson

The Board received the written financial results summary for six months ending March 31, 2003, as well as the current financial forecast. Ms. Cahill reported that we are currently ahead of budget by approximately \$134,000, due primarily to tight cost control, staff vacancies and return on investments. No response has been received from the State regarding the Tier 2 Post Retirement issue.

Ms. Cahill also reported that the committee reviewed an investment consultant proposal and formal bidding policy that will be presented to the Board at a future meeting.

Programs and Services – Nancy J. Diehl, Chairperson

Ms. Diehl provided an update on Office Max. Chad Sluss, SBM Member Services Manager, reported that information and catalogs will be mailed to the membership in the next few weeks. Mr. Turner noted that this follows along with the mandate in the Strategic Plan to increase services to our members and help them become more effective in their practices.

Ms. Diehl reported that the Access to Justice report was mailed in advance with the Board materials and Candace Crowley provided a brief update on the program. Candace was recognized for her efforts. Ms. Diehl also thanked commissioners for their contributions to the ATJ Fund.

Commissioner Plunkett, Chair of the Bar Leadership Liaison Committee, provided a report on the Bar Leadership Forum to be held June 13-15, 2003 at the Grand Hotel, and encouraged all commissioners to participate.

A motion was made and seconded to recognize the Northwestern Michigan Senior Bar Association, based on the following amended language:

Article 14 – Membership

Section (A) shall be amended to read as follows:

Active members must be attorneys in good standing with the State Bar of Michigan, or have been admitted ~~at a~~ *and are in good standing at another* State Bar Association.

Motion carried.

Ms. Diehl stated that a written report would be provided on the National Consortium Conference and noted that it was one of the best conferences she had ever attended. Lorraine Weber provided a verbal report and acknowledged all those who participated and/or contributed to the funding of the conference. Approximately 276 attended the conference.

Commissioner Evanne Dietz presented information and distributed a flyer on behalf of the Open Justice Commission regarding free statewide training on May 15, 2003 for attorneys interested in volunteering for pro bono representation of domestic violence victims. Mr. Turner stressed the importance of these efforts.

SPECIAL PRESENTATION

A resolution was prepared, read, presented for adoption Mr. Rombach and seconded for retired Board member Julie I. Fershtman. It carried unanimously. A copy is attached to these minutes as Addendum I. (Ms. Fershtman was unable to be present at the September Board meeting when retiring commissioners were recognized).

Public Policy, Image and Identity – Scott S. Brinkmeyer, Chairperson

A motion was made and seconded to adopt the following Statement of Principles concerning court funding.

History

Throughout its history, the State Bar of Michigan has consistently been a strong and vocal advocate for judicial branch funding that meets the needs of the public at all levels: sufficient numbers of judges and staff, training, facilities, security, technology, and indigent civil and criminal defense services. The following principles reflect the considerations that have traditionally been at the core of the State Bar's advocacy:

Public Policy Principles Concerning Judicial Branch Funding

1. The judicial branch budget should be sufficient to meet constitutional requirements and to provide adequate resources for timely, fair, and efficient disposition of cases.
2. Judicial branch funding in Michigan should be funded primarily by state general fund dollars, supplemented by local general fund dollars, filing fees, and court costs.
3. The judicial branch budget should include funding for indigent civil legal assistance.
4. Filing fee amounts should not be so high as to discourage the filing of valid complaints. The determination of the appropriate level of fees should include consideration of the necessary level of service, new system needs, comparison of fees in other jurisdictions, and inflation.
5. The requirement that judges waive or suspend payment of any fee, in whole or in part, upon a showing by affidavit of indigency or inability to pay, should be strictly observed.

Roll call vote:

Commissioners present voting in favor: Brinkmeyer, Cahill, Diehl, Dietz, Eddie, Erhart, Escobedo, Grenkowitz, Jamieson, Keefe, Levy, Lubben, William Murphy, Niforos, Piper, Plunkett, Portinga, Rombach, Schnelz, Stephens, Toy, Ulrich and Turner.

Commissioner(s) present voting against: Stephen Murphy.

Legislation

The following actions were approved by the Board:

HB 4016 – Probate, guardians and conservators; State agencies (existing), executive office; appropriations, supplemental

Oppose in principle

HB 4018 – Courts, district court; bond for district court magistrates

Support in principle

HB 4032 – Appropriations, zero budget; Appropriations, supplemental

Support in Principle, consistent with judicial funding and the principles just adopted
(see above)

HB 4066 – Civil procedure, personal protection orders

Active opposition

HB 4075 – Civil procedure; costs and fees; fee for filing application for personal protection

Oppose in principle

Roll call vote:

Commissioners present voting in favor: Brinkmeyer, Cahill, Diehl, Dietz, Erhart, Escobedo, Grenkowitz, Jamieson, Keefe, Levy, Lubben, Stephen J. Murphy, William Murphy, Niforos, Piper, Plunkett, Portinga, Rombach, Schnelz, Stephens, Toy, Ulrich and Turner.

Commissioner(s) present voting against: Eddie.

HB 4078 – Courts; district court

No position

HB 4120 – Children, paternity; Children, support; Family law, parental rights

No position

SB 74 – Courts, circuit court; courts, reorganization. Courts; circuit court; twenty-third, twenty-sixth and fifty-third judicial circuits; revise

No position

Court Rules

Pending response from appropriate Sections, the following was deferred to the next meeting:

File 2003-07 – Proposed Amendments of Rules 3.973, 3.974, 3.975 and 3.977. Dispositional Hearing, Review, Procedures, Child at home, Child in Foster Care.

File 2002-47 – Proposed Amendment of Rule 3.203. Service of Notice and Court Papers in Domestic Relations Cases (amended language proposal).

File 2002-13 – Proposed Amendment of Rule 3.210. Hearings and Trials.

The Board considered the following proposed amendments published for comment by the Supreme Court, and took the following positions:

File 2002-46 - Proposed Amendment of Rules 7.304, 9.114 and 9.122 of the Michigan Court Rules. Original Proceedings, Action by Administrator or Commission after Answer and Review by Supreme Court, amending the word “mandamus”.

Support in principle

File 2001-29 - Proposed Amendment of MRE Rule 702. Testimony by Experts.

Support Alternative A, and oppose Alternative B

File 2003-12 – Proposed New Rule 3.221 of the Michigan Court Rules. Hearings on Support and Parenting Time Enforcement Act Bench Warrants.

Deferred

File 2002-54 – Proposed New Rule 2.406 of the Michigan Court Rules. Use of Facsimile Communication Equipment

Support and ask that the new proposed court rule be proposed as 2.107 as opposed to 2.406

File 2002-34 - Proposed Amendment of Rules 7.204, 7.210, 7.211, 7.212 and 7.216 of the Michigan Court Rules. Filing Appeal of Right; Appearance, Transcript, Duties of Court Reporter or Recorder.

Concerning the amendments relating to intake proceedings only, the Board voted to:

- Support generally the ongoing efforts of the Court of Appeals to reduce appellate delay.
- Support funding for appellate delay reduction initiatives to reduce the “warehouse.”
- Oppose the published revisions to MCR 7.212 that eliminate stipulated extensions of time to file briefs and shorten the time for filing briefs and reply briefs.
- Recommend further study, and urge attention to the recommendations of the Report of the State Bar of Michigan Task Force on Appellate Delay Reduction.

ADM File No. 2002-44, Administrative Order 2002-5. Differentiated Case Scheduling at the Court of Appeals.

The Board voted to adopt the recommendation of the Civil Procedure & Courts Committee to support a pilot program of differentiated case management in the Court of Appeals, and to defer endorsement of permanent differentiated case management scheduling until after publication of details about how such a program would be implemented and what effect the program is expected to have on the disposition of cases.

FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

Comments or questions from Commissioners

Mr. Turner asked for comments or questions from the Commissioners, but there were none.

Comments or questions from the public

Mr. Turner asked for comments or questions from the public, but there were none.

Old Business

There was none.

New Business

There was none.

The meeting was adjourned at 12:10 p.m.