

Excerpts from State Bar of Michigan Audited Financial Statements

and Other Supplementary Information, Year Ended September 30, 2017
with Report of Independent Auditors

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<http://viewer.zmags.com/publication/4711a02d>

December 15, 2017

Honorable Stephen J. Markman
Chief Justice
Supreme Court of Michigan
Hall of Justice
925 W. Ottawa Street
Lansing, MI 48915

**RE: STATE BAR OF MICHIGAN
ANNUAL FINANCIAL REPORT—FY 2017**

With this letter, please accept the FY 2017 Annual Financial Report of the State Bar of Michigan. The Annual Financial Report covers the fiscal year ended September 30, 2017, and contains the audited financial statements and other information required by accounting standards or useful to understanding the operations and effectiveness of the State Bar of Michigan.

MAJOR ACCOMPLISHMENTS IN FY 2017

FY 2017 witnessed revision, approval, and initial implementation of the State Bar's Strategic Plan which incorporates the work of the 21st Century Practice Task Force and focuses on enhanced services to members and the public in a cost-effective manner. The new Strategic Plan can be accessed on the State Bar's website at <http://www.michbar.org/generalinfo>.

Major accomplishments in FY 2017:

Strategic Planning

The 12-member Strategic Planning Work Group met over several months in 2016 and completed its work in early 2017. Using the work of the 21st Century Practice Task Force as a guiding resource, the work group developed a new strategic plan with updated goals, strategies, and key priorities. The new plan was presented to the Board of Commissioners in January, and presented to and adopted by the Representative Assembly in April.

Character & Fitness

The State Bar processed 835 character and fitness applications for the July 2016 and February 2017 bar exams—111 fewer applications than in FY 2016. A national trend of decreasing law school enrollment began several years ago. The decline in bar applications reflects smaller graduating classes and fewer applicants for admission. There were 40 State Bar District Committee interviews, 42 State Bar Standing Committee hearings, and 6 Board of Law Examiners hearings during FY 2017. Effective with the February 2016 bar application cycle, the State Bar implemented an online portal, through which applicants submit their bar applications and pay their bar exam and investigation fees online, automatically providing the Application to Sit for the Bar Examination to the Board of Law Examiners. Further modernization will include an applicant portal to provide seamless communication between State Bar Character & Fitness, the Board of Law Examiners, and applicants during the application and exam processes; a State Bar Character & Fitness customized portal to improve workflow and process and enhance robust database management; and a Board of Law Examiners customized portal to improve workflow and process and

enhance robust database management. Software programming is underway to integrate the Affidavit of Personal History, previously hosted on the website of the National Conference of Bar Examiners (NCBE), with the modernized admission system. Effective with the July 2018 exam, applicants will no longer be directed to the NCBE's website to complete the questionnaire.

Client Protection Fund

The Board of Commissioners approved payment of 70 Client Protection Fund claims totaling \$861,566.55 to reimburse clients whose attorneys misappropriated their funds. Claim payments totaling \$695,339.73 were disbursed from the Fund in FY 2017, which included a portion of claims approved by the Board of Commissioners in FY 2016. As of September 30, 2017, \$455,486.76 in approved claim payments remained pending, awaiting signed subrogation agreements from the prospective payees.

Unauthorized Practice of Law

There were 71 complaints alleging the unauthorized practice of law (UPL) received during FY 2017. The Board approved litigation in seven matters where UPL is believed to have occurred and informal resolution to prevent further occurrence of the conduct could not be accomplished. Of the remainder, 17 were closed after investigation, 20 are pending committee review after investigation, 6 are pending resolution after committee review, and 21 remain open for further investigation and review.

Promoting Ethics

State Bar staff counsel responded to approximately 10–20 inquiries daily from attorneys and judges seeking informal advice through the Ethics Helpline. The State Bar presented its "Tips and Tools for a Successful Practice" ethics seminar twice during the bar year to help lawyers strengthen their law practices. A half-day "Lawyer Trust Accounts: Management Principles and Recordkeeping Resources" seminar was held three times during the bar year to assist lawyers with management of trust accounts, including the use of traditional, interactive recordkeeping resources and software tools for effective digital recordkeeping.

Staff counsel gave ethics presentations to professional responsibility classes at law schools, the University of Detroit Mercy Law School Incubator Attorney Program, various legal associations, State Bar sections, and bar-related entities. Staff counsel supported Professionalism in Action programs hosted by all five Michigan law schools.

The Professional Ethics Committee issued three new ethics opinions and prepared FAQs on both the ethical use of social media platforms and avoiding the unauthorized practice of law for lawyers subject to disciplinary suspension and disbarment.

Pro Hac Vice Processing

During FY 2017, the State Bar processed 921 pro hac vice applications through its pro hac vice online portal. The pro hac vice rule allows out-of-state and foreign lawyers to seek temporary admission to appear before a Michigan court, administrative tribunal or agency, or arbitration proceeding.

Lawyer Referral Service

Guided by the work of the 21st Century Practice Task Force and using the comprehensive enhanced profile member directory as the functional backbone of the new service model, the State Bar is creating the country's first full-service state bar online Legal Resource and Referral Center. When completed, the new service will take full advantage of online access, automated administration, consumer-centered business practices using data-driven marketing and feedback, and new standards of accountability based on best business practices and ethics.

In 2017, the State Bar's Lawyer Referral Service was targeted for modernization. A new pilot project was launched in March 2017 to make the LRS a one-stop shopping service for consumers needing legal assistance. The pilot program modified the agreements with panel members to eliminate initial consumer consultation payments, instituted a \$25 State Bar administrative fee to consumers for a 25-minute consultation with a panel member attorney, and upgraded the consumer website for the LRS, while maintaining the telephone-based component of the referral process. The \$25 administrative fee is waived for tenants with urgent housing problems, Social Security claimants, workers' compensation claimants, and personal injury plaintiffs.

The pilot is the first phase of the modernization process. The consumer-facing pages on the State Bar website that contain information about the Legal Resource and Referral Center have been redesigned and are now live. The new pages include information for the public about finding legal assistance through the Lawyer Referral Service, the Online Directory, and Michigan Legal Help. A bot-based interactive question/answer resource helps consumers navigate the site. LRS attorney panel and referral management tools were developed and tested for full implementation in 2018. The next phase of development will add automatic noticing and tracking for communication between the Lawyer Referral Service, panel attorneys, and consumers.

A modest means program for consumers who do not qualify for legal aid but have limited resources is also being developed for piloting within the online Legal Resource and Referral Center. Its initial focus is family law and bankruptcy. The pilot program will be available to income-eligible clients who are at 200 percent of the poverty guidelines.

Lawyers and Judges Assistance

The Lawyers and Judges Assistance Program (LJAP) opened 77 new cases and provided monitoring or referral services to 252 clients. LJAP performed 61 assessments and monitored an average of 64 clients each month. The program also provided 51 telephone consultations for attorneys, law students, judges, or concerned colleagues or friends struggling with addiction or mental health issues. LJAP clinicians made 20 presentations to law students, attorneys, and judges on issues including addiction, stress management, and dealing with difficult personalities.

Public Policy

The State Bar's public policy program fully reviewed 54 public policy items, including legislation, court rules, and administrative rules, and led the advocacy on approximately 47 formal policy positions. Highlights of legislative activity include successfully advocating for updates to the Michigan Indigent Defense Commission statute, increasing juror compensation, and making admission to the Bar less onerous for spouses of active duty military members. In addition, the State Bar's public policy program has advocated for continued funding for the Legal Services Corporation at the federal level.

The State Bar's Criminal Issues Initiative and Disabilities Workgroup co-sponsored a program in March on the Collateral Consequences of Juvenile Adjudication. The program, held at the Lake Michigan College in Benton Harbor, provided a panel discussion on the juvenile justice system for approximately 90 participants. Attendees included local attorneys, social workers, area judges and court staff, juveniles and their parents, members

of the sponsoring sorority, educators, deputy sheriffs, and other community partners.

Advocacy

The State Bar once again joined lawyers from around the country in Washington, D.C., for the annual American Bar Association Day to lobby for support of funding for the Legal Services Corporation (LSC), the backbone of civil legal aid and pro bono in the U.S. A six-member State Bar delegation met with every member of the Michigan congressional delegation and provided information on constituents helped and services provided. They were armed with letters of support from the Michigan Judges Association, the Judicial Section, Michigan District Judges Association, Michigan Probate Judges Association, the Michigan Coalition to End Domestic & Sexual Violence, Michigan Protection and Advocacy Service, and others.

Representative Assembly

The Representative Assembly supported three proposals to amend the Michigan Court Rules and the Michigan Rules of Professional Conduct:

- Supporting the proposed amendments to MCR 2.116 and 2.119 published by the Court for comment in ADM Order 2015-24;
- Recommending amending Rule 7.1 of the Michigan Rules of Professional Conduct (MRPC) to specifically address the titles that lawyers who previously held judicial positions may use while engaged in the practice of law or other law-related activities;
- Amending MCR 3.993 to broaden and clarify the scope of direct appeals of orders in violation of specific provisions of ICWA (25 USC 1914) and MIFPA (MCL 712B.39).

Sections of the State Bar

During FY 2017, membership in the State Bar's 42 sections totaled 66,960, including 32,097 paid memberships. Free section memberships are offered to new members, those qualifying for the Young Lawyers or Master Lawyers sections, and members of the judiciary.

Services to the sections were enhanced and reviewed with section leaders at the annual Section Chair Orientation. As is our custom, ICLE joined section leaders for the day and presented information on its education and programming services. The popular section leader luncheons continued this year.

Committees of the State Bar

Volunteers filled 819 positions on the 37 standing and special committees and four justice initiatives of the State Bar. Twenty-eight nonlawyers were appointed to assist in that work. An in-person and webinar orientation for new committee members and leaders was conducted to promote effective participation in the committee process and compliance with court rules, administrative orders, and State Bar bylaws and policies.

The State Bar committee structure was redesigned to better accomplish the ambitious goals of the new Strategic Plan and to provide volunteer opportunities to more State Bar membership. Four new steering committees were created to provide high-level direction to the committee work and to help the Board of Commissioners track progress toward the goals. A new volunteer application was created to better understand how members prefer to participate and to provide opportunities to meet those preferences. Traditional standing committees are supplemented with fast-acting work groups to address narrow goals and complete work within short periods of time. A record number of nearly 600 applications was received, with more than 150 applications submitted by first-time volunteers.

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Promoting Outreach

The State Bar president and staff continued the tradition of visiting many of the approximately 135 local and special-purpose bars recognized by the State Bar, setting a record pace of attending more than 80 affinity bar events. The visits gather information about the state of the profession throughout Michigan, and familiarize members with State Bar services, provide practice management and lawyers and judges assistance seminars, and support local civic education programs. The visits were also coordinated with bench-bar gatherings, and conduct strategic planning and organizational development programs.

The bar visits began with a series of events in the Upper Peninsula, including a Bench-Bar Conference in Marquette, with participation from several local court and tribal court judges and members of the Michigan Court of Appeals; a hands-on education seminar focused on best practices in the use of technology in firm management and litigation settings; and a joint meeting in Iron Mountain with two local Michigan bars and the State Bar of Wisconsin. The Young Lawyer Section's outreach included hosting a multi-day national meeting of young lawyers in Detroit. The annual Bar Leadership Forum attracted 92 participants—23 from local and special-purpose bars, 30 from the Board of Commissioners, 33 from sections, and 6 other guests. A well-received bar leader training workshop in East Lansing was co-presented by the State Bar, the Michigan Association of Bar Executives, and the American Bar Association.

The Upper Michigan Legal Institute on Mackinac Island offered a range of legal topics including medical marijuana and employment law, estate and elder law updates, special-needs trusts, family law and criminal law updates, and handling drunk driving cases and collateral consequences.

Promoting Diversity and Collaboration in the Profession

The State Bar hosted the FY 2017 Face of Justice program at the Hall of Justice, organized by the Equal Access Initiative and the Law Related Education and Public Outreach Committee of the State Bar. The program is modeled after a program of the National Association of Women Judges titled "Color of Justice," and is designed to promote interest in the legal profession within diverse student populations. Seventy students from Lansing area high schools participated in the half-day session. The program featured a tour of the courts, a visit to the interactive Learning Center, and "jet" mentoring sessions with more than 20 legal professionals from judges to law enforcement officers.

The State Bar hosted the third annual Brunch for Bars in Detroit. Speakers shared timely insights on the practice of "agreeing to disagree" and communicating across cultural differences with attendees.

The Sections Bars and Committees workgroup of the Diversity and Inclusion Advisory Committee co-sponsored an Affinity Bar Summit with the Michigan Association of Bar Executives. Keynote speaker Barbara Arnwine, president and founder of the Transformative Justice Coalition, spoke on the role of race and ethnicity as it relates to problems within the legal system.

The Underrepresented Populations Workgroup of the State Bar Equal Access Initiative, in collaboration with the State Bar Diversity and Inclusion Advisory Committee, co-hosted a forum on legal matters in Middle Eastern communities at the NEXT Conference.

Supporting Pro Bono

The State Bar hosted the ninth annual Pro Bono Workshop on May 23, 2017. The workshop provided an opportunity to showcase the many advancements in the State Bar's pro bono work, including the successful development of several Pro Bono Initiative-sponsored programs. The QDRO Pro Bono Program has been helping low-income clients for more than 10 years by preparing QDROs that enable clients to collect retirement benefits they are legally entitled to receive. The Tax Pro Bono Referral Panel Program, a partnership with the Taxation Section and Michigan's Low-Income Taxpayer Clinics, continued to help low-income clients from across Michigan. Since its inception in 2013, the program has placed nearly 135

cases with pro bono lawyers. The Michigan Patent Pro Bono Project, a partnership with the Intellectual Property Law Section, also continues to help low-income clients in Michigan, receiving more than 100 requests for assistance since it was created less than two years ago. Also, the Malpractice Insurance for Pro Bono Program provides a way for Michigan attorneys without malpractice insurance to receive coverage so they can provide pro bono legal assistance to low-income clients.

For the ninth year in a row, the State Bar sponsored Pro Bono Month in conjunction with the American Bar Association's Pro Bono Week celebration, a national recognition of pro bono activities. The Pro Bono Month celebration is an opportunity to recruit more pro bono volunteers, increase legal services to the poor, mobilize community support for pro bono, foster collaborative relationships, and recognize and publicize the pro bono efforts of lawyers.

Beginning in April, a MI Free Legal Answers pilot was launched in Genesee County. MI Free Legal Answers is a website that partners low-income clients who have legal questions with pro bono attorneys who answer their questions. The pro bono attorneys are trained to refer the low-income clients to an appropriate legal or community service as appropriate. So far, more than 60 low-income client questions have been posted and answered through the website.

NEXT Conference (Annual Meeting)

The State Bar held its Annual Meeting during the NEXT Conference in Detroit in September. The conference was well attended and the Institute of Continuing Legal Education (ICLE) provided educational content focused on the future of law practice. New à la carte pricing on educational sessions allowed members to attend one or two full days of education or have the flexibility to register for only the sessions most beneficial to them. The conference also included the State Bar Awards Banquet, the Celebrating Diversity Reception, an All-Member Networking Reception, the State Bar Inaugural Luncheon, an All-Member Luncheon, and the 50-Year Honoree Golden Celebration Luncheon.

Practice Management Resource Center

The Practice Management Resource Center (PMRC) continued to update and provide resources through the State Bar website. The inventory for both hard-copy and digital PMRC libraries expanded as new publications were added throughout the year. State Bar members and support staff can enhance their practice management knowledge and skills using a variety of learning options through the PMRC's newest resource, its Learning page. Our Learning EZ Technology Demo series launched with helpful videos showcasing digital dictation and voice recognition software, and our Social Media series has videos about creating a Twitter profile and getting started with Twitter. This site is full of videos, webinars, and other resources for those interested in one-stop learning. Additional webinar recordings on practice management, cybersecurity, opening a law practice, and the twenty-first-century lawyer will be added soon.

PMRC staff continued to respond to approximately 40 telephone calls monthly from lawyers and their staff seeking practice management advice via the PMRC helpline, authored practice management articles for the *Michigan Bar Journal* and external publications, and participated in and developed webinars, podcasts, and numerous seminars and programs sponsored by the PMRC and/or local bar associations, the American Bar Association, ICLE, law schools, and bar-related entities.

Through a customized training and consulting program, PMRC staff conducted 17 consultations for members referred by attorney discipline agencies, and performed three individualized practice management consultations and customized technology training sessions for lawyers and law firms.

Member Directory

Important changes to the State Bar print member directory took effect with the April 2017 issue. Members who currently opt in to receive the *Michigan Bar Journal* April issue now receive a new, portable Resource

Directory that is more accurate, much less costly to print and distribute, and takes into account substantial changes in member preferences and use over the last decade. It no longer includes members' contact information. Members' contact information and attorney status are located on the State Bar's member directory website and are updated daily. A full printed Alphabetical Roster that includes both member contact information and the Resource Directory information is available for sale. A total of 1,365 members purchased the full printed version.

Dues Statements for 2017–2018

In an effort to modernize the dues process and reduce postage and paper expenses, in September 2017 the State Bar implemented dues notification by e-mail to all active and inactive members with e-mail addresses. Members can log in to e.michbar.org to access their dues statement and either complete the annual statement and pay online, or print the annual statement, complete it, and pay with a check. Work has begun to further automate this process (similar to the state of Michigan professional license renewals) to provide for online renewal as the standard process, add online check payment capability, and add the ability for members to complete their dues renewal online but pay by mailing a check.

Support of the Access to Justice Fund

The Access to Justice Campaign revenue (including pledges) for the fiscal year ended September 30, 2017, was more than \$1,352,000 (unaudited), including \$318,000 of unique gifts. The Access to Justice Campaign is a partnership of the State Bar, the Michigan State Bar Foundation, and Michigan's legal aid providers to increase resources for civil legal aid to the poor in Michigan. Approximately \$16.5 million has been received to date by the Access to Justice Fund in donations and pledges. Access to Justice Fund contributions are received and administered by the Michigan State Bar Foundation. Access to Justice Fund guidelines can be found at www.msbfb.org/atjfund.

Member Growth

A total of 895 new members joined the State Bar in FY 2017. Attorney members in good standing grew to 45,316 members, a net increase of 0.7 percent over FY 2016.

Financial Performance

As of September 30, 2017, the State Bar's net position in the Administrative Fund totaled \$12,277,875, a decrease of \$318,899 during FY 2017. The Client Protection Fund's net position totaled \$2,239,582, a decrease of \$185,119 during FY 2017. The sections' net position totaled \$2,205,771, an

increase of \$73,656 during FY 2017. The Retiree Health Care Trust's net position totaled \$2,771,178, an increase of \$326,683 during FY 2017, which will be used for future retiree health care premiums. The State Bar operates with no debt.

APPROVED FY 2018 BUDGET

The State Bar Board of Commissioners has approved a FY 2018 Administrative Fund budget totaling \$10,773,106, using \$1,156,355 of reserves, focused on continued accomplishment of the State Bar's strategic focus. As a result of careful management, the State Bar's dues cycle has been extended well beyond the normal seven-year cycle, and budgets using reserves are now expected and planned for into the foreseeable future. The FY 2018 budget includes additional resources for the Lawyers and Judges Assistance Program, Information Technology, Lawyer Referral, and Access to Justice Fund campaign support. A summary of the FY 2018 approved budget was published in the November 2017 *Michigan Bar Journal* and can also be found on the State Bar's website at www.michbar.org/generalinfo/.

MANAGEMENT'S RESPONSIBILITY

The State Bar of Michigan's management is responsible for the information provided in this FY 2017 Annual Financial Report. The basic financial statements and related notes are audited by the independent accounting firm of Andrews Hooper Pavlik PLC in accordance with auditing standards generally accepted in the United States of America, and their opinion is provided as a part of this report.

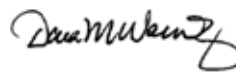
Questions or comments on this FY 2017 Annual Financial Report should be directed to Janet K. Welch, executive director of the State Bar of Michigan.



Donald G. Rockwell
President



Janet K. Welch
Executive Director



Dana M. Warnez
Treasurer



James C. Horsch
Director of Finance and Administration