

President Keefe called the meeting to order at 9:30 a.m. on Friday, April 11, 2008 at the Michael Franck Building in Lansing.

Commissioners present:

Lori A. Buiteweg  
Beverly Hall Burns  
B. D. "Chris" Christenson  
John J. Conway  
Margaret Costello  
Richard L. Cunningham  
Brian D. Einhorn  
James N. Erhart  
Elias J. Escobedo, Jr.  
Julie I. Fershtman, Treasurer  
Robert C. Gardella  
W. Anthony Jenkins, Secretary  
Elizabeth M. Johnson  
Katherine Kakish

Ronald D. Keefe, President  
Donald E. McGinnis, Jr.  
Hon. William B. Murphy  
Lambro Niforos  
Edward H. Pappas, President-Elect  
Eric J. Pelton  
Michael J. Riordan  
Thomas C. Rombach  
Kurt E. Schnelz  
Julie A. Sullivan  
Laurin' C. Roberts Thomas  
Charles R. Toy, Vice-President  
Gregory L. Ulrich

Commissioners Laura Chapelle, Bruce Courtade, Francine Cullari, Robert Fergan, and Kiffi Ford, were absent and excused.

State Bar Staff Present:

Janet K. Welch, Executive Director  
Marge Bossenbery, Executive Coordinator  
Kari Brandel, Manager, Member Services and Events  
Nancy Brown, Director, Member Services and Communications  
Gregory Conyers, Acting Director, Justice Initiatives  
Candace Crowley, Director, External Development  
Dawn Evans, Director, Professional Standards  
Cliff Flood, General Counsel  
Mary Frook, Director, Human Resources  
James Horsch, Director, Finance and Administration  
Victoria Kremski, Deputy Director, Professional Standards  
Elizabeth Lyon, Director, Governmental Relations  
Naseem Stecker, Manager, Media and Public Relations  
Anne Vrooman, Director, Research and Development

Guests

John Van Bolt, Executive Director, Attorney Discipline Board  
Sally Purcell, President, Michigan Lawyers Auxiliary  
Lynn Chard, Executive Director, Institute for Continuing Legal Education

President's Comments

President Keefe asked for a moment of silence in memory of Kim Cahill and Scott Ulrich.

President Keefe introduced Sally Purcell, President of the Michigan Lawyers Auxiliary (MLA), who provided the board members with a written report of the activities of the MLA.

President Keefe reported that Mr. Gardella has withdrawn his name for consideration for an ABA House of Delegates nomination.

### Consent Agenda

#### Minutes

The Board received the minutes from the January 11, 2008 Board of Commissioners meeting.

#### ***President's Activities***, Ronald D. Keefe, President

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

#### ***Executive Director's Activities***, Janet K. Welch, Executive Director

The Board received a written report on the Executive Director's recent activities.

#### ***Finance***, Julie I. Fershtman, Chairperson

The Board received the preliminary financial reports through February 2008

#### **Professional Standards**, W. Anthony Jenkins, Chairperson

The Board received the Client Protection Fund Claims.

#### **Proposed State Bar of Michigan Bylaw Amendment**

The Board received a bylaw amendment from the Insurance and Indemnity Section.

A motion was offered, supported, and carried, to approve the consent agenda

### COMMISSIONER COMMITTEES

#### ***Finance***, Julie I. Fershtman, Chairperson

##### Financial Update

Ms. Fershtman asked Mr. Horsch to provide the board members with a FY 2008 financial update. Mr. Horsch reviewed the SBM financial reports through February 2008.

##### Status of Liability for Retiree Health Care

Ms. Fershtman provided the board members with an update on the Retiree Health Care Liability issue. Ms. Fershtman referenced an April 9 memo prepared by Mr. Horsch that all board members received entitled "Summary of Retiree Health Care Issues." This memo explained the history and status of the SBM's liability for retiree health care and indicated that the SBM has designated a portion of net assets to begin to address this obligation. The Finance Committee is reviewing the current procedure and drafted a proposal for an alternative method for meeting this obligation that involves the creation of an irrevocable trust. The board will be asked to vote on this proposal at the June meeting.

##### Investment Policy

Ms. Fershtman provided the board members with an update on the SBM long-term investments and future investment strategies. She reported that the Finance Committee adopted a new investment policy this morning that took into consideration PA 20 and will be presented to the board members at the June meeting for approval. Ms. Fershtman recognized the work of Commissioner Rombach and indicated that as part of the proposal the policy will be reevaluated every two years by the Finance committee and the board members.

Ms. Fershtman reported that a subcommittee was formed today to develop a budget amendment policy and that this policy will be brought before the board for their consideration in June.

Ms. Fershtman indicated that the Finance Committee would consider drafting a Michigan based vendor preference policy for the SBM at a future meeting.

Mr. Keefe recognized Mr. Van Bolt, Executive Director of the Attorney Discipline Board (ADB), who indicated his interest in the financial decisions of the board because the ADB's employment policies are historically tied to those of the SBM.

**Professional Standards**, W. Anthony Jenkins, Chairperson

**ABA House of Delegates Appointments**

Mr. Jenkins presented the names of the people recommended by the Professional Standards Committee to fill the SBM vacancies on the American Bar Association House of Delegates. Mr. Jenkins indicated that subcommittee members, (Ms. Ford, Judge Murphy and Mr. Schnelz) met and reviewed the applicants and presented their recommendations to the entire Professional Standards Committee, which approved them. The Board discussed the selection criteria and terms of office. A motion was offered, supported and adopted to review each appointment separately.

A motion was offered, supported and approved to appoint E. Christopher Johnson to serve on the ABA delegation for a two-year term.

A motion was offered, supported and approved to appoint Gregory L. Ulrich to serve on the ABA delegation for a two-year term.

A discussion took place regarding the desirability of a dedicated seat on the ABA delegation for a representative of the Representative Assembly.

A motion was offered to defer taking action on the vacancies for the one-year term and for the alternate position on the ABA House of Delegates. The motion was defeated.

A motion was offered, supported and approved to appoint Vanessa Peterson Williams to serve on the ABA delegation for a one-year term.

A motion was offered, supported and approved to appoint William Dunn to serve on the ABA as an alternate to the ABA delegation.

A motion was offered to require that one of the seats on the House of Delegates be assigned to a Representative Assembly member. This motion was tabled to allow the board to explore the matter further.

**Lawyer Referral Service Committee Update**

Mr. Jenkins asked Ms. Evans to provide an update to the board members about the Lawyer Referral Services Committee (LRSC). Ms. Evans provided an update and analysis on whether the board should create an LRSC and whether this committee should be a special or standing committee. It was recommended that the board approve the formation of a LRSC special committee, that seven members be appointed to the committee, and that the committee begin its role during the upcoming bar year. The committee will be evaluated at the end of the next bar year to determine if it should be made a standing committee. A motion was offered, supported and adopted.

**Programs and Services**, Charles R. Toy, Chairperson

**New Members Discount Programs**

Mr. Toy reported that the Programs and Services committee recommends that the SBM adopt the new member discount programs for the following companies, Brooks Brothers, Document Framing Services, Car Rental, and Identity Theft Membership Discount Program. A motion was offered, supported and adopted.

**Heinonline Licensing Proposal – Digital Formatting of Michigan Bar Journal**

The board was asked to approve a new member service form Heinonline, which would provide the members with the opportunity to obtain the Michigan Bar Journal in digital format. A motion was offered supported, and adopted.

**50-year Honoree Golden Celebration Resolution**

The board was asked to approve the language of the 50-year Honoree Golden Celebration resolution. A motion was offered, supported and adopted.

**2008 Event Update**

Ms. Brandel provided an update on the upcoming events of the State Bar of Michigan.

**Public Policy, Image and Identity**, Edward H. Pappas, Chairperson

**Justice Initiatives Report**

The Board received a written report from the Hon. Cynthia Diane Stephens, co-chair of the Justice Initiatives Committee.

**Court Rules**

2002-37 Proposed New Rules 2E.001 et seq. (Electronic Filing)

A motion was offered, supported and adopted to support the 6 principles recommended by the Civil Procedure and Courts Committee.

2206-10 Proposed Amendment of Rule 2.603 of the MCR

A motion was offered, supported and adopted to oppose this amendment.

2006-11 Proposed Amendment of Rules 2.614, 7.101, 7.209, and 7.302 of the MCR

The board decided to defer to the Executive Committee to consider once comments from the Appellate Practice section are received.

2006-32 Proposed Amendment of Rule 2.504 of the MCR

A motion was offered, supported and adopted to oppose the proposal as drafted and to support the amendments recommended by the Civil Procedure and Courts Committee and the Justice Initiatives Committee.

2007-38 Proposed Amendment to Rule 6.201 of the MCR

A motion was offered, supported and adopted to oppose this amendment.

**Legislation**

HB 5089 Criminal Procedure DNA

A motion was offered, supported and adopted to support this legislation.

HB 5260 Criminal Procedure Search and Seizure

A motion was offered, supported and adopted to oppose this legislation.

HB 5534 Criminal Procedure Verdict

A motion was offered, supported and adopted to support this legislation and to support an amendment recommended by Committee on Justice Initiatives that the judge enter a contemporaneous order to quiet title in the victim's name.

HB 5568 Criminal Procedure; sentencing

A motion was offered, supported and adopted to support this legislation.

HB 5598 Family Law marriage and divorce, placement of pets by court

A motion was offered, supported and adopted to oppose but authorize the Animal Law section to advocate its position.

HJR 00 Criminal Procedure, bail

A motion was offered, supported and adopted by a roll call vote to oppose this legislation.

SB 0661 Criminal Procedure, sentencing guidelines

The board decided to defer taking action on this legislation.

SB 0989, 0990, and 0991 Jury Bills

A motion was offered, supported and adopted to oppose these bills because they are the proper jurisdiction of the Supreme Court.

SB 0992 Exemption from jury service if served within the preceding 24 months

A motion was offered, supported and adopted to oppose this legislation.

SB 0994 Courts; funding

The board decided to defer taking action on this legislation.

SB 0995 Courts; juries

A motion was offered, supported and adopted to oppose this legislation.

SB 0996 Civil Procedure; costs

A motion was offered, supported and adopted to oppose this legislation.

SB 1001 and 1002 Civil Procedure; civil action

A motion was offered, supported and adopted to oppose this legislation.

SB 1066 Traffic Control

The board decided to defer taking action on this legislation.

Request to cosponsor "Michigan Public Defense Conference on reforming Public Defense Serving our Communities"

A motion was offered, supported and adopted to act as cosponsor unless NLADA report has not been released

## **LEADERSHIP REPORTS**

**President's Report**, Ronald D. Keefe, President

**Board Officer Election Process and Timeline**

President Keefe indicated that if any board member is interested in becoming an officer he/she should read the procedure put forth in the materials in Tab XII-A of the board book and submit the required documents to the President and the Executive Director by June 11, 2008.

Honoring Kim Cahill

President Keefe indicated that the staff and the Executive Committee have discussed many ways in which the State Bar could honor former President Kim Cahill, and referred to the staff. A discussion about these options will take place at the June meeting so that a decision can be announced at the Annual Meeting in September. President Keefe reported to the board members that the idea of a Cahill Bar Leadership Award as described in the memo is the option that drew the most interest from the members of the Executive Committee. A discussion ensued.

Restrict SBM Officers and Executive Director from endorsing Judicial and Political candidates

President Keefe reported that the Executive Committee has discussed and brings before the board a proposal to restrict the SBM officers and the Executive Director from endorsing Judicial and Political candidates. After a discussion on this issue, a motion was offered, supported and adopted to table this issue so that the board can receive further information.

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

Naming of the Boardroom

Ms. Welch provided the board members with a memo that describes a decision that was made in to name the Boardroom after Milton Bachmann. Mr. Bachmann was the 4<sup>th</sup> Executive Director of the State Bar of Michigan and presided over the financing and construction of the original one-story bar building. The board members decided to defer this issue for discussion at the June meeting.

Legal Assistant Section Name Change

Ms. Welch reported that the Legal Assistance Section is asking that the SBM approve a name change from the Legal Assistants Section to the Paralegal/Legal Assistant Section. A motion was offered, supported and adopted.

2009 Budget Process, Roles, and Calendar

Ms. Welch reported that there will be a first review of the FY 2009 budget in June and that the final budget will be on the agenda of the July board meeting as an action item.

Fieger v Taylor, et al

Ms. Welch reported that Mr. Pelton, Mr. Einhorn and Mr. Cunningham participated in a conference call on January 28 to discuss the pros and cons of the Bar's taking a position in an amicus brief in the Fieger v Taylor case. There was no consensus. Mr. Pelton recommended that the commissioners read both of the decisions as well as the comment section.

Military Members

Ms. Welch asked Mr. Ulrich to update the board members on an ABA proposal to waive the dues requirement for members actively serving in the military. The ABA resolution applies to dues, CLE and other requirements to members while they are serving in combat zones. Mr. Ulrich expects that at the RA meeting tomorrow the RA members will vote favorable for this policy.

Ms. Welch informed the board of her and Mr. Toy's involvement in mentoring efforts with Cooley Law School. The group is studying what works and what does not in mentoring programs because national experience shows that once a program get going it often falls apart. Ms. Welch indicated that little research has been done to look at the characteristics of mentoring relationships and that this group hopes to find the funds to accomplish that.

Ms. Welch reported on explorations into State Bar involvement in state trade missions.

Ms. Thomas informed the group that the International Sister Cities Conference is taking place in Lansing on July 23 – 26.

Ms. Welch reported on SBM personnel changes that have taken place since the last meeting. She reported that the facilities manager and a part-time receptionist positions are vacant. Ms. Welch also informed the board members that Catherine O'Connell is now working for Homeland Security and Victoria Kremiski has accepted a position as an ethics professor at Cooley Law School in Grand Rapids. Ms. Welch reported that the SBM continues to focus efforts on increasing staff diversity. Ms. Welch asked that any board member who is aware of qualified candidates should ask them to submit resumes.

Ms. Welch referred the Commissioners to a document that was at their places that describes the Professional Standards division and how the division's activities relate to the Strategic Plan.

**Representative Assembly Report**, Robert C. Gardella, Chairperson

Mr. Gardella provided the Board with an update on the April 12 Representative Assembly meeting.

Mr. Gardella reported that the recommendation for the 2008 Michael Franck Award is former Chief Justice Thomas Brennan and that the recommendation for the 2008 Unsung Hero Award is Susan Spagnuolo Dal.

**American Bar Association (ABA) Report**, W. Anthony Jenkins, State Delegate

Mr. Jenkins provided the Board with a preview of the ABA Annual Meeting to be held in August in New York City. The ABA Rules and Calendar committee would meet during the weekend of May 30 to review the various reports and recommendations that have been submitted

Mr. Jenkins reported that his service as the state delegate will end at the conclusion of the ABA Annual meeting in August and that Reggie Turner has been nominated to replace him as the state delegate. Mr. Jenkins was nominated to the Board of Governors of the ABA at the mid-winter meeting.

**Young Lawyers Section Report**, Robert K. Fergan, Chairperson

Mr. Fergan could not attend the meeting today but provided the Board with a written report on the Young Lawyers section activities.

Mr. Christensen, in Mr. Fergan's absence, provided the Board with an overview of the Young Lawyers Summit that is taking place on May 16 in Mt. Pleasant.

**Comments or questions from Commissioners**

There were none.

**Comments or questions from the public**

The Board entered into an Executive Session at 1:40 p.m.

**Adjournment**

The Board went into open session at 2:00 p.m. and the meeting was adjourned.