

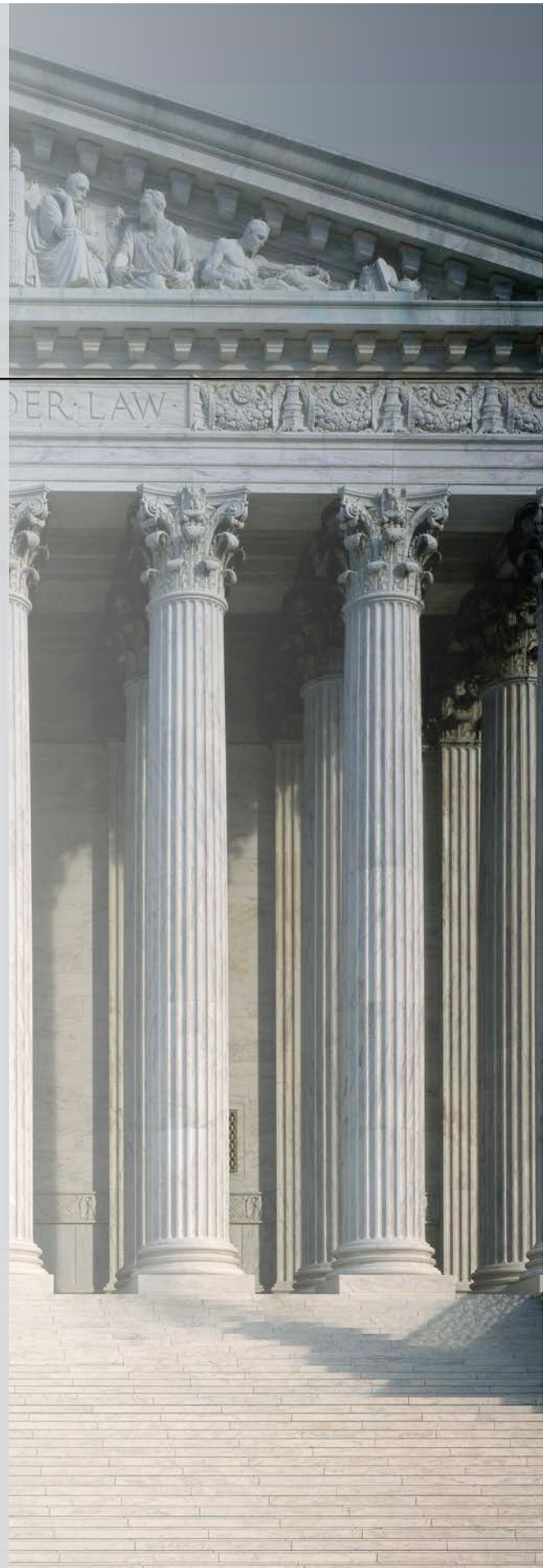


Mandatory State Bar Associations

# Managing Keller

The following information regarding mandatory bars and how they manage Keller related activities was compiled by State Bar of Michigan between February 2014 and May 2014. This was a significant research initiative to support the Michigan Supreme Court Task Force on the Role of the State Bar of Michigan. As information was gathered, executive directors from several state bars expressed an interest in receiving this compilation of material. We are pleased to share this information with those who find it useful. Please note that the State Bar of Michigan does not update this compilation as policies and statutes change in various states. Users are encouraged to check with the state bars directly to learn of any relevant changes.

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<http://www.michbar.org/opinions/keller.cfm>



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## ARTICLE X

### PUBLIC STATEMENTS

#### **Section 10.1 Public Statements on Behalf of the State Bar of New Mexico.**

Except as set forth in Article XI, the President, with approval of the Executive Committee, may issue public statements involving the purposes established in Article I.

#### **Section 10.2 Public Statements by Sections, Committees, Divisions and Commissions.**

Except as set forth in Article XI, no section, committee, division or commission shall publicly release or announce any recommendation or action of the section, committee, division or commission unless the Executive Director determines:

- (a) The recommendation or action is germane to the purpose of the section, committee, division or commission;
- (b) The recommendation or action was taken by a majority of the Board of Directors of the section or division or a majority of the members of the committee or commission; and,
- (c) The release or announcement indicates it is the action of the section, committee, division or commission and does not represent the view or action of the State Bar.

If the Executive Director disapproves any release or announcement, the matter shall be submitted to the Executive Committee of the BBC for final approval or disapproval.

STATE BAR OF MICHIGAN

## ARTICLE XI

### GOVERNMENTAL AFFAIRS

#### Section 11.1 The Governmental Affairs Committee (GAC)

The BBC may designate a Governmental Affairs Committee (GAC) to facilitate the participation in the Legislative-Executive-Judicial process pursuant to Rule 24-101(A) NMRA. All State Bar activities related to the Legislative, Judicial and/or Executive process shall be referred by the BBC to the GAC. State Bar sections, committees, divisions and commissions shall be governed by Section 11.7 below. The President of the BBC shall appoint up to eleven members of the BBC to serve on the GAC. The Past President of the BBC shall serve as chair of the committee. If the Past President declines to serve as chair, then the GAC shall elect a chair. The Executive Director and the General Counsel of the State Bar shall sit on the committee in an ex-officio capacity and shall not have a formal vote.

#### Section 11.2 Authorized Activities in the Legislative-Executive-Judicial Process

##### *Subsection 11.2(a) Authorized activities of the State Bar of New Mexico*

Authorized activities related to the core purpose of the State Bar of New Mexico or its designees pertaining to governmental affairs shall be limited to the following without further authority from the BBC:

- 1) the regulation and discipline of attorneys and the practice of law;
- 2) the competency and professional responsibility of lawyers including education and ethics;
- 3) the regulation of lawyer trust accounts;
- 4) increasing the availability and the provision of legal services;
- 5) improving the functioning of the courts and justice system;
- 6) improving access to the courts;
- 7) judicial independence;
- 8) improving the fairness, efficacy and efficiency of the courts;
- 9) the jurisdiction of the courts;
- 10) the provision of content neutral technical assistance and expertise regarding the drafting of rules and statutes pertaining to practice, procedures and evidence;
- 11) the governance and business activities of the State Bar of New Mexico;
- 12) defending legal and administrative actions and claims brought against the State Bar of New Mexico.



*Subsection 11.2(b) State Bar of New Mexico staffing of GAC*

The BBC may, at its discretion, permit the utilization of internal staff for the purpose of pursuing the activities of this Article.

**Section 11.3 Specifically Prohibited Activities**

No governmental affairs activities intended to influence legislation may be funded with members' mandatory dues, unless the legislation in question is limited to matters within the scope of permissible activities as described in Section 11.2. Furthermore, the BBC and the State Bar of New Mexico are prohibited from engaging in activities having as the main emphasis a political or ideological coloration which is not reasonably related to the advancement of the core purpose of the State Bar of New Mexico and those goals set forth in Section 11.2.

**Section 11.4 Approval of Positions on Matters Pertaining to Governmental Affairs**

Except as permitted herein, no officer or member of the BBC or employee or volunteer of the State Bar of the State of New Mexico shall represent to any member of the Legislature, Executive or Judiciary that the BBC or GAC has taken a position on a specific matter related to governmental affairs or, conduct any lobbying activities regarding such matters except as follows:

1) If the activity falls solely within the permitted activities identified in Section 11.2, then by a two-thirds (2/3) vote of the members of the GAC present at a meeting, either in person or via telephonic or videoconferencing, once a quorum has been attained. If the vote is taken solely by electronic means, the vote must be unanimous. The GAC shall report regularly to the BBC regarding any action taken;

2) It is recognized that many activities may involve multiple issues, some of which are permitted and some which may be prohibited by Section 11.3. If that is the case, before the BBC or its designee representing the State Bar of New Mexico may state that it is taking an official position on a subject matter, it must have been approved by a:

A) two-thirds (2/3) of the members of the GAC present at a meeting, either in person or via telephonic or videoconferencing, once a quorum has been attained. If the vote is taken solely by electronic means, the vote must be unanimous, and

B) two-thirds (2/3) of the members present at a regular or special meeting of the BBC, once a quorum has been attained. Because it is recognized that there is a need for deliberation, for the purposes of this section, no vote of the BBC shall be taken via email or by proxy.

### **Section 11.5 Expedited Matters**

It is recognized that it may be necessary to expedite decisions of the GAC during Legislative sessions or the fact finding process. If the issue to be addressed falls solely within one of the permitted activities identified in Section 11.2, the President of the BBC or his or her designee may, if requested, poll the members of the GAC either telephonically, by video conferencing or by email. A two-thirds (2/3) vote of the members of the GAC is necessary before the President or his designee can represent to the governmental body that the BBC and the State Bar have taken a specific position on that issue. The President must then report to the entire BBC the request, who made the request and why, the vote of the GAC and the results of his/her efforts before the governmental body within 10 days. This can be conveyed electronically.

### **Section 11.6 Notification of Governmental Advocacy and Payment of Expenses.**

Except as set forth in Section 11.5, to the extent reasonably practical, the membership of the Bar shall be notified of proposed governmental advocacy, in advance, by notice published in the *Bar Bulletin*. The BBC, in its annual budgeting process, shall determine an amount to be allocated each year toward the governmental affairs activities. The full amount and the BBC's proposed action shall be disclosed to the members of the Bar in the annual budget disclosure statement. If mandatory dues are allocated or spent for governmental affairs activities which are not related or germane to the organization's purposes as set forth in Article I and/or Article XI, Section 11.2, then the members shall have the option of paying only such portions of the dues which are to be used for permissible purposes. When the dues notice is sent out to the members of the State Bar of New Mexico, there shall be a specific line on the dues form allowing each member the right to a refund for that portion and not have any of the member's mandatory dues applied toward that governmental affairs activity.

### **Section 11.7 Legislative, Executive and Judicial Advocacy by Sections, Committees, Divisions and Commissions of the State Bar.**

Legislative, executive and judicial advocacy by sections, committees, divisions and commissions of the State Bar of New Mexico shall be conducted only in a manner consistent with and in accordance with these Bylaws.

#### ***Subsection 11.7(a) Position Advanced by Committees, Divisions and Commissions.***

No committee, division or commission of the State Bar is authorized to engage in activity designed to influence a legislative, executive or judicial position without the advance approval of the BBC pursuant to this

Article. Any proposed governmental advocacy shall be presented to the GAC setting forth the specific position to be taken as well as the proposed method and manner of presenting the same. If State Bar funds are to be used to present said position, the proposal must be approved by resolution of the BBC by a vote of two-thirds (2/3) of that body present at a regular or special meeting of the BBC.

*Subsection 11.7(b) Position Advanced by Sections.*

(1) Sections of the State Bar are not prohibited from providing governmental or fact-finding bodies with content-neutral technical assistance within the field of legal expertise of the section. The decision of the Board of Directors of a section to provide legislators with content-neutral technical assistance shall be brought to the attention of the GAC as soon as practicable, and the furnishing of such assistance shall thereafter be reported in the Bar Bulletin.

(2) Sections are not prohibited from lobbying for or against legislation within the field of legal expertise of the section but must comply with the requirements set forth herein. This may include contacting legislators, testifying before committees, or making public statements in the media.

(3) No mandatory bar dues shall be expended in the activities described in paragraphs 11.7 b (1) and (2) above. Sections shall reimburse the State Bar for any staff time and/or expenses incurred.

(4) Neither the section nor any person acting on its behalf should take any action to support or oppose legislation unless the position has been approved by a two-thirds vote of the Board of Directors of the section after giving reasonable notice to the membership of the section and the BBC. In addition, a section by amendment of its bylaws may adopt a more stringent procedure such as submitting the lobbying position to an actual vote of the section membership or other poll of section membership in order to establish section approval. The results of all votes by section Board of Directors on proposals to support or oppose legislation shall be transmitted immediately to the GAC and published within a reasonable time in the *Bar Bulletin*.

When a section Board of Directors adopts a position by a less-than-unanimous vote, a roll-call vote shall be taken, and each Director's vote shall be included in the published notice. A section may adopt a general position in anticipation of legislative action even though specific legislation may not have been introduced.

Also, the section is authorized to represent the section's position in connection with any amendments or substitute legislation which is consistent with the original position adopted by the Board of Directors of the section.

(5) If, upon recommendation of the GAC, the BBC finds that the section did not properly follow the procedures for obtaining section approval for the lobbying activity or legislative position, then the BBC shall direct the section to discontinue those activities until it has complied with this article.

(6) In addition to the other requirements, all lobbying materials shall state: This position is neither endorsed nor approved by the State Bar. All speakers on behalf of sections, while lobbying, shall make a similar announcement. No section can engage in litigation or file amicus briefs.





## ARTICLE XII

### INDEMNIFICATION OF OFFICERS AND DIRECTORS

The State Bar shall indemnify any director, former director, officer or former officer of the State Bar, including State Bar division and section officers, section directors and committee chairs, against: (1) reasonable expenses, costs and attorneys fees, actually and reasonably incurred by said director, former director, officer or former officer in connection with the defense of any action, suit or proceeding, civil or criminal, in which he/she is made a party by reason of being or having been a director or being or having been an officer, and (2) any amounts paid to satisfy a judgment or to compromise or settle any claim; provided, however, that the State Bar will not indemnify directors or officers against liability caused by breaches or failure to perform the duties of a director or officer which constitutes willful misconduct or recklessness. The intent of this bylaw is to permit indemnification under the broadest interpretation of the conditions under which indemnification is permitted by NMSA 1978, § 53-8-26 (1987). Indemnification may be made in advance or at the time of actual payment by the director or officer for reasonable expenses to be incurred in connection with the defense of the action, suit or proceeding, or at the time of any settlement or payment or judgment; provided, however, if it is determined that the director or officer is liable on the basis that he/she breached or failed to perform duties and that the breach or failure to perform constitutes willful misconduct or recklessness, then the director or officer must reimburse the State Bar for all sums which he/she was ineligible to receive.

STATE BAR OF MICHIGAN

## Rules Governing the Bar

### 24-101. Board of bar commissioners.

#### A. Organization of the State Bar of New Mexico.

In order to aid the courts in improving the administration of justice, to promote the interests of the legal profession in the state of New Mexico, to promote and support the needs of all members, to be cognizant of the needs of individual and minority members of the profession, including the full and equal participation of minorities and women in the State Bar and the profession at large, to improve the relations between the legal profession and the public, to encourage and assist in the delivery of legal services to all in need of such services, to foster and maintain high ideals of integrity, learning, competence and public service, to provide a forum for the discussion of subjects pertaining to the practice of law and law reform, to promote and provide continuing legal education in technical fields of substantive law and practice and to participate in the legislative, executive and judicial processes by informing its membership about issues affecting the legal system and relating to the purpose of the state bar, and upon approval by the Board of Bar Commissioners, to take such further action as may be necessary to present the views of the bar commission to the appropriate court, executive office or legislative body for consideration; and to the end that the responsibility of the legal profession and the individual members thereof may be more effectively and efficiently discharged in the public interest, and acting within the powers vested in it by the constitution of this state and its inherent power over members of the legal profession as officers of the court, the Supreme Court of New Mexico does hereby create and continue an organization known as the State Bar of New Mexico, and all persons now or hereafter licensed in this state to engage in the practice of law shall be members of the State Bar of New Mexico in accordance with the rules of this court. The State Bar of New Mexico may incorporate, sue and be sued, may enter into contracts and acquire, hold, encumber, dispose of and deal in and with real and personal property, and promote and further the aims as set forth herein and hereinafter in these rules.

Except as otherwise provided by the rule adopted by the Supreme Court, no person shall practice law in this state or hold himself or herself out as one who may practice law in this state unless such person is an active member of the state bar, and no suspended or disbarred member shall practice law in this state or hold himself or herself out as one who may practice law in this state, while suspended or disbarred.

#### B. Divisions created.

The Supreme Court of New Mexico does hereby create the following divisions of the state bar:

##### (1) A Young Lawyers Division.

Membership in the Young Lawyers Division shall consist of all members of the State Bar of New Mexico in good standing under thirty-six (36) years of age and those members who have been admitted to the practice of law in any state less than five (5) years. Membership shall terminate automatically as of December 31 after a member attains thirty-six (36) years of age or five (5) years after admission to the practice of law in any state, whichever shall last occur. An individual elected as Chair-elect prior to his/her thirty-sixth (36th) birthday may serve in that capacity, as well as, that of Chair and Past Chair, in accordance with these bylaws. No one who is thirty-six (36) or older shall otherwise, except in accordance with this Article, be elected to an office of the YLD. An individual elected as Chair-elect prior to his/her thirty-sixth (36th) birthday may serve in that capacity, as well as, that of Chair and Past Chair, in accordance with this Article. An individual who qualifies as a member of the Young Lawyers Division on the basis that he/she has not been admitted to any state bar for more than five (5) years, may not serve as an officer of the Division if such service would extend beyond the fifth (5th) year of that admission. The Young Lawyers Division shall adopt bylaws applicable to its division which shall be approved by the Board of Bar Commissioners. Such bylaws shall not be inconsistent with these rules. The bylaws of the Young Lawyers Division shall establish the process for the election of its officers and directors;

##### (2) A Senior Lawyers Division.

Membership in the Senior Lawyers Division shall consist of all members of the State Bar of New Mexico in good standing who are fifty-five (55) years of age or older and who have practiced law for twenty-five (25) years or more. The Senior Lawyers Division shall adopt bylaws applicable to its division which shall be approved by the Board of Bar Commissioners.

Such bylaws shall not be inconsistent with these rules. The bylaws of the Senior Lawyers Division shall establish the process for the election of its officers and directors; and

(3) A Paralegal Division.

A person may become a member of the paralegal division if the person meets the requirements of Rule 24-101A of these rules.

The paralegal division shall adopt bylaws applicable to its division which shall have been approved by the Board of Bar Commissioners. Such bylaws shall not be inconsistent with these rules. The bylaws of the paralegal division shall establish the process for the election of its officers and directors.

C. Board membership and powers.

The Board of Bar Commissioners shall be the governing board of the state bar. Each commissioner shall have one vote. Except as otherwise provided by Paragraph I, the board shall consist of twenty-one (21) bar commissioners, consisting of those district bar commissioners elected pursuant to Paragraph D, and the chair of the Young Lawyers Division and the elected delegate of the Senior Lawyers Division. The board has perpetual succession and may use a common seal. The board may employ an executive director. The board may adopt bylaws applicable to the state bar and the board; provided, however, any such bylaws inconsistent with these rules shall be invalid.

D. Bar commissioner districts.

The following bar commissioner districts are established and each district shall be represented by the indicated number of district bar commissioners, each of whom shall have their principal place of practice in the district represented and shall be nominated and elected by the members of the bar in accordance with the bylaws of the state bar;

(1) the first bar commissioner district, which consists of Bernalillo County, shall be represented by eight bar commissioners;

(2) the second bar commissioner district, which consists of San Juan, McKinley, Cibola and Valencia Counties, shall be represented by one bar commissioner;

(3) Sandoval, Los Alamos, Rio Arriba, and Santa Fe Counties, shall be represented by three bar commissioners;

(4) the fourth bar commissioner district, which consists of Taos, Colfax, Union, Mora, Harding, San Miguel and Guadalupe Counties, shall be represented by one bar commissioner;

(5) the fifth bar commissioner district, which consists of Quay, Curry, Roosevelt and DeBaca Counties, shall be represented by one bar commissioner;

(6) the sixth bar commissioner district, which consists of Lea, Eddy, Chaves, Lincoln and Otero Counties, shall be represented by three bar commissioners; and

(7) the seventh bar commissioner district, which consists of Catron, Socorro, Torrance, Sierra, Hidalgo, Luna, Grant and Dona Ana Counties, shall be represented by two bar commissioners.

E. Terms of office.

The district bar commissioners shall be elected to terms of three (3) years and shall hold office until their successors are elected and qualified. No Commissioner shall be elected to more than three (3) consecutive terms.

F. Vacancies.

Vacancies on the board of the district bar commissioners shall be filled by appointment of the board, and district bar commissioners so appointed shall serve until the next regular election of district bar commissioners, at which time an election of a district bar commissioner to fill the unexpired term shall be held.

G. Nominations for district commissioners.

Nominations to the office of district bar commissioner shall be by the written petition of any ten or more active status



members of the bar in good standing. Any number of candidates may be nominated on a single petition which shall be received by the executive director within a period to be fixed by the bylaws of the State Bar of New Mexico. No state or federal judge shall be eligible to serve as a member of the board of the state bar while in office.

H. Officers of board of commissioners; election.

In accordance with the bylaws of the state bar, the Board of Bar Commissioners shall elect a president, a president-elect, a vice president, and a secretary-treasurer, who shall take office at the annual meeting of the state bar. All of said officers shall be members of the Board of Bar Commissioners and shall be officers of the state bar and of its Board of Bar Commissioners. Terms of office for the officers of the board shall commence as of the annual meeting of the state bar and those officers shall serve until the next annual meeting of the state bar unless said officer(s) resign in which case they shall serve until their successors are elected and take office.

I. Extension of commissioner terms.

If a district bar commissioner's term of office expires while such commissioner is serving in the position of president-elect, president or immediate past president, such commissioner's term shall be extended for an additional three year term; but the commissioner shall serve only the portion of the term which ends one year after the commissioner's term as president. During the extended term, there shall be elected from the district in which the commissioner resides, one less member to the board than said district would be otherwise entitled to under these rules. At the regular election of commissioners one year after the year when the said president's term of office expires, an election shall be held in the district to elect a member from that district to the board who shall serve for the remainder of the term. [As amended, effective January 1, 1987; July 1, 1987; June 1, 1992; October 1, 1992; December 1, 1993; March 31, 2000.]

24-102. Annual license fee.

Every member of the state bar shall, prior to the first day of January of each year, pay to the executive director of the state bar an annual license fee, which fee shall be determined and fixed by the Board of Bar Commissioners prior to January of each calendar year. Members whose dues are received after the first day of February will be assessed a late payment penalty of one hundred dollars (\$100.00). If the member's dues, and late penalty are not received before the last day of March, the Board of Bar Commissioners shall, through its executive director, certify to this court the name of such member on a list of names of all members failing to pay their annual license fees and late penalties.

New admittees shall pay the annual license fee fixed by the bar on or before the first day of the first month following the date of their admission prorated for the number of full months remaining in the calendar year following the date of their admission to the bar. New admittees whose dues are received after the first day of the second month following their admission will be assessed a late payment penalty of one hundred dollars (\$100.00). If the new admittee's dues and late penalty are not received after the first day of the third month following the new admittee's admission, the Board of Bar Commissioners shall, through its executive director, certify to this court the name of such member on a list of names of all members failing to pay their annual license fees and late penalties.

Whenever the Board of Bar Commissioners of the State Bar shall cause to be certified to the supreme court that any member of the state bar has failed or refused to pay the license fee or late penalty imposed herein, immediately upon receipt of said certification from the executive director of the state bar, the clerk of the supreme court shall issue a citation requiring the delinquent member to show cause before the court, within fifteen (15) days after service of such citation, why such member should not be suspended from the right to practice in the courts of this state. Service of such citation may be personal or by registered mail. The payment of such delinquent license fee on or before the return day of such citation, and payment of accrued costs, shall be deemed sufficient showing of cause, and shall serve to discharge the citation.

Any member suspended under the provisions of this rule shall be required to petition the Board of Bar Examiners for reinstatement, and as a condition precedent to any granting of reinstatement shall be required to pay a reinstatement fee of:

- A. twice that member's then license fee, plus
- B. all fees in arrears, plus
- C. all accrued late penalty payments.

Any attorney in good standing may file a petition with the supreme court for voluntary withdrawal as a member of the bar of this state. Upon the filing of such petition, the court may enter an order terminating the petitioner's membership in the bar of this state, and the petitioner shall not thereafter be entitled to practice law in the courts of this state. No order of



suspension for failure thereafter to pay the annual bar license fee will be entered against such member, and the member's withdrawal will not prejudice the member's record or standing during the period of membership in the bar of this state.

The Board of Bar Commissioners may waive all or part of any license fee in cases of extreme individual hardship. In cases where a petition for waiver of all or part of any license fee has been rejected by the Board of Bar Commissioners, an attorney may petition the supreme court for modification or reversal of the action of the board.

All moneys collected by the executive director in accordance with the provisions of this rule shall be deposited to an account designated as State Bar of New Mexico general fund and shall be disbursed by order of the Board of Bar Commissioners in carrying out the functions, duties and powers vested in said board. The Board of Bar Commissioners shall on or before March 1 of each year submit to the Supreme Court of New Mexico an accounting and audit of all funds received and disbursed during the prior calendar year. Such audit shall be performed by an auditor to be selected by the board.

No member of the Board of Bar Commissioners or any committee member appointed by the board shall receive any compensation, but shall receive mileage and per diem at the same rate as provided for public officers and employees of the state and may be reimbursed with the approval of the Board of Bar Commissioners for expenses incurred in conjunction with travel on Board of Bar Commission business.

[As amended December 22, 1986; May 9, 1985; March 1, 1988; September 1, 1991; June 1, 1992.]

#### 24-103. Annual meeting of the state bar.

There shall be an annual meeting presided over by the president of the State Bar, open to all members of the bar in good standing, for the discussion of the affairs of the bar and the administration of justice. The Annual Meeting of the State Bar shall be held at such time and place as the Board of Bar Commissioners may designate, provided however, that the Annual Meeting shall not be held outside the State of New Mexico in successive years. The annual election of commissioners shall close at noon (12:00) on November 30th and the ballots canvassed by at least three commissioners not running for reelection, appointed by the president and the results published in the *Bar Bulletin*.

#### 24-108. Pro bono publico service.

A. Professional Responsibility. In attempting to meet the professional responsibility established in Rule 16-601 of the Rules of Professional Conduct, a lawyer should aspire to render at least fifty (50) hours of pro bono publico legal services per year. The substantial majority of the fifty (50) hours of service should be provided as indicated in Subparagraphs (1) and (2) of Paragraph A of Rule 16-601 of the Rules of Professional Conduct. Additional services may be provided as indicated in Paragraphs B or C of Rule 16-601 of the Rules of Professional Conduct.

B. Financial Contribution. Alternatively or in addition to the service provided under Paragraph A of this rule, a lawyer may fulfill this professional responsibility by:

(1) contributing financial support to organizations that provide legal services to persons of limited means in New Mexico, in the amount of five hundred dollars (\$500) per year; or

(2) provide a combination of pro bono hours and a financial contribution as suggested in this table:

Pro Bono Hours	0	5	10	15	20	25	30	35	40	45	50+
Suggested Contribution	\$500	\$450	\$400	\$350	\$300	\$250	\$200	\$150	\$100	\$50	Attorney Discretion

C. Pro Bono Certification. Each lawyer of the bar shall annually certify whether the lawyer has satisfied the lawyer's professional responsibility to provide pro bono services to the poor. Each lawyer shall certify this information through a form that is made a part of the lawyer's annual membership fees statement that shall require the lawyer to report the following information:

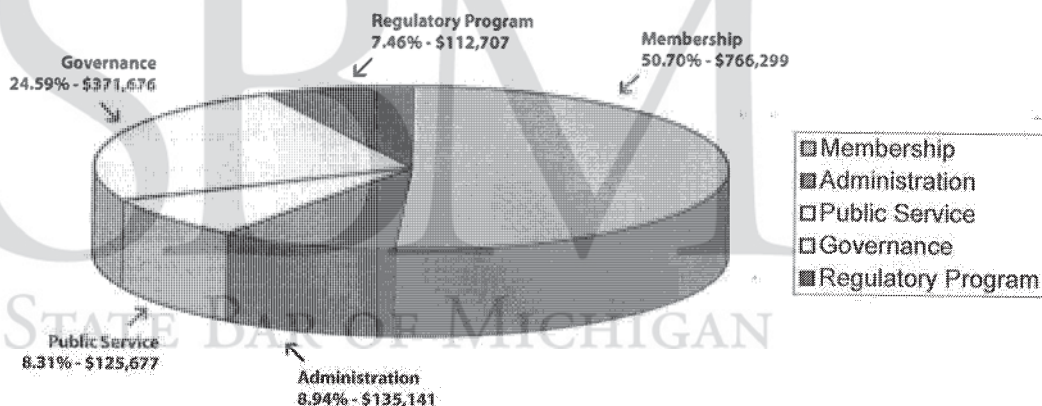
- (1) the number of hours the lawyer dedicated to pro bono legal services, and
- (2) if the lawyer has satisfied the obligation by contribution or part contribution, the amount of that contribution.

2009

# STATE BAR OF NEW MEXICO BUDGET DISCLOSURE

Dear Members:

The Board of Bar Commissioners has approved the following budget for calendar year 2009. The budget is available in its entirety for the benefit of State Bar members and to provide an opportunity for members to object to any proposed expenditure in the budget that is not related to the State Bar's purposes of regulating the profession or improving the quality of legal services. **Members wishing to receive a printed copy of the budget disclosure may do so by calling (505) 797-6035 or (800) 87nmbar (876-6227).** Instructions for challenging expenditures believed to be non-germane are set forth on page two of the document. The first pages of the budget provide the total expenditures by categories, while the remaining pages provide explanations and further breakouts of the expenditures by category. The total expenditures for the State Bar in 2009 are budgeted to be \$2,084,860. Of this amount, approximately \$573,360 is expected to be supported by non-dues revenue, and approximately \$1,511,500 will be funded by dues. The following chart illustrates the total dues-supported budget broken into five main categories.



There were no material non-budgeted items for 2007.

The financial condition of the State Bar is sound, and the Board of Bar Commissioners is proud of the many programs and services the State Bar provides to the membership and the public.

Sincerely,

Jessica Perez  
Secretary-Treasurer



## YOUR DUES FOR 2009

In *Popejoy, et al. vs. New Mexico Board of Bar Commissioners*, No. Civ. 92-1462 JB, Judge Burciaga of the United States District Court for the District of New Mexico ordered the State Bar to take the following steps on an ongoing basis:

1. Commencing with budget year 1991, annually provide to all State Bar members of New Mexico (State Bar) in accordance with the Court's findings and conclusions, an accounting of the major categories of State Bar's expenditures allocating the actual anticipated costs of its activities funded by the mandatory dues;
2. Categorize those expenditures and activities as chargeable or non-chargeable;
3. Present verification by an independent auditor that the charges attributable and allocated to each activity or category of expenditures are accurate;
4. Permit State Bar members the option of paying only such portions of the dues which are to be used for the permissible purpose of regulating the legal profession or improving the quality of legal services available to the people of the State of New Mexico, *see Keller v. State Bar of California*, 496 U.S. 1 (1989);
5. Provide a reasonable period of time for the State Bar members to challenge the assessment of chargeable dues or fees once having been provided with adequate information; and
6. Allow for an impartial decision-maker to address unaccepted objections, *see Chicago Teachers Union v. Hudson*, 475 U.S. 29 (1986).

The Board of Bar Commissioners has determined that all proposed expenditures for 2009 are necessarily or reasonably related to regulating the legal profession or improving the quality of legal services to the people of the State of New Mexico and, therefore, all dues-related expenditures are chargeable to fees for all members. A listing and description of the major categories of these chargeable and non-chargeable activities for 2009 are included with the Budgeted Statement of Chargeable and Non-Chargeable Expenses/Expenditures by Functional Category (hereinafter "statement"). In accordance with the *Popejoy* decision, the accounting firm of REDW, LLC has audited the statement and the explanatory notes (Summary of Significant Assumptions and Accounting Policies). A copy of the statement, the notes, and the independent accountants' report are included in the pages following this notice.

Members are given the opportunity to dispute the Board of Bar Commissioners' determination of the chargeable nature of the expenses described by category in the attached materials on grounds that a category is not

reasonably related to the State Bar's purposes of regulating the profession or improving the quality of legal services or that an error was made in calculating a non-chargeable expense. A member who wishes to make such a challenge is hereinafter referred to as "challenger." A challenger must state his or her challenge in writing. The written challenge must include the challenger's name, address, phone number and should identify the challenge category.

A challenger must sign the challenge and submit it to the Executive Director, State Bar of New Mexico, 5121 Masthead NE, Albuquerque, NM 87109, PO Box 92860 (87199) on or before 30 days from the date hereof. Thus, the challenge must be postmarked on or before December 9, 2008; delivered in person; or sent by fax to the State Bar's office before 5:00 p.m. on December 10, 2008. The State Bar's fax number is (505) 797-6019. A form for which challenges may be used appears on the last page of this document.

Upon receipt of the properly and timely submitted challenge, the Board of Bar Commissioners shall decide at a special meeting whether to honor the challenge by eliminating the expenditure from the budget, refunding the challenged dues, or submitting the dispute to the impartial decisionmaker, who will be designated by the Supreme Court of New Mexico to hear challenges to the 2009 Budget. The challenge proceedings shall be informal in nature, and the State Bar shall have the burden to show that the disputed matters are within the scope of permissible activities for which mandatory fees may be used under the constitutional standard of *Keller* and related cases. The challenger(s) will be given an opportunity to present their own evidence and to present written arguments in support of their challenge(s). The decisionmaker will issue a written decision on whether or not a challenged expenditure is chargeable or non-chargeable to fees. If the proposed expenditure is found to be nonchargeable, the challenger shall either be entitled to a refund of the challenged dues or may deduct that amount from dues if the decision is rendered prior to the time dues are to be paid. In addition, the decisionmaker will decide the amount, if any, to be refunded or deducted. If the decision is not rendered before dues are to be paid, the Board of Bar Commissioners shall escrow the challenged portion of the challenger's dues into a separate interest bearing bank account until the decision is rendered.

A copy of the State Bar's Bylaws pertaining to challenges and the procedures for such challenges may be obtained by visiting our Web site at [www.nmbar.org](http://www.nmbar.org) calling 797-6035 or by writing the State Bar office at 5121 Masthead NE, PO Box 92860 (87199), Albuquerque, NM 87109.



The Rogoff Firm

CERTIFIED PUBLIC ACCOUNTANTS | BUSINESS & FINANCIAL ADVISORS

## Independent Accountants' Report

Board of Bar Commissioners  
State Bar of New Mexico

We have examined the accompanying forecasted (budgeted) statement of chargeable and non-chargeable expenses/expenditures by functional category of the State Bar of New Mexico for the year ending December 31, 2009. State Bar of New Mexico's management is responsible for the forecast. Our responsibility is to express an opinion on the forecast based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included such procedures as we considered necessary to evaluate both the assumptions used by management and the preparation and presentation of the forecast. We believe that our examination provides a reasonable basis for our opinion.

The accompanying statement was prepared for the purpose of presenting to the members of the State Bar of New Mexico the allocation of certain budgeted expenditures, expenses and deferrals into chargeable and non-chargeable categories as described in Note 1 and is not intended to be a complete presentation of the State Bar of New Mexico's assets, liabilities, revenues and expenses in conformity with accounting principles generally accepted in the United States of America and, therefore, should not be used for any other purpose.

In our opinion, the accompanying forecast is presented in conformity with guidelines for presentation of a forecast established by the American Institute of Certified Public Accountants, and the underlying assumptions provide a reasonable basis for management's forecast. However, there will usually be differences between the forecasted and actual results, because events and circumstances frequently do not occur as expected, and those differences may be material. We have no responsibility to update this report for events and circumstances occurring after the date of this report.

*REDW LLC*

November 6, 2008



**STATE BAR OF NEW MEXICO**  
**Budgeted Statement of Chargeable and Non-Chargeable Expenses/Expenditures by Functional Category**  
**For the Year Ending December 31, 2009**

	Total Expenses	Allocated	non-dues funds	net amounts funded	percentage of dues
<b>CHARGEABLE</b>					
<b>STATE BAR GOVERNANCE, ADMINISTRATION AND ORGANIZATION</b>					
A Board of Bar Commissioners (page 7)	\$156,870	\$41,540		\$198,410	13.13%
B Capital Outlay (page 7)	118,040	31,258		149,298	9.88%
C Litigation					
1 General Litigation (page 7)	500	132		632	0.04%
2 Popejoy/Keller Challenge Procedure (page 7)	18,450	4,886		23,336	1.54%
					24.59%
					371,676
<b>STATE BAR ORGANIZATION</b>					
<b>A Administration Department</b>					
1 Administration (page 8)	436,495	(436,495)			
2 Accounting					
a Credit Card Merchant Fees (page 9)	17,000	4,502		21,502	1.42%
b Dues & Licensing Form (page 9)	7,000	1,854		8,854	0.59%
3 Human Resources (page 9)	1,870	495		2,365	0.16%
4 Print Shop/Production (page 9)	75,315	(75,315)		0	0.00%
a Outside Production (page 9)	33,605	22,146	32,000	23,751	1.57%
5 State Bar Center					
a Professional Development Center (Classrooms) (page 10)	98,405	26,058	120,500	3,963	0.26%
b Conference Rooms, Visiting Attorneys; Offices, Computer Resource Room (page 10)	37,700	9,983		47,683	3.15%
6 Systems					
a Membership Lists (page 10)	0	0	7,320	(7,320)	-0.48%
7 World Wide Web Site (page 10)	37,360	9,893	12,910	34,343	2.27%
					8.94%
					135,141
<b>B Membership and Communications Department</b>					
1 Administration (page 10)	116,555	(116,555)			
2 Committees (page 11)	35,600	16,191		51,791	3.43%
3 Divisions					
a Paralegal Division (page 11)	0	0		0	0%
b Senior Lawyers Division (page 11-12)	11,850	5,389		17,239	1.14%
c Young Lawyers Division (page 12)	36,345	16,530		52,875	3.50%
4 Membership Services Programs					
a Affinity Programs (page 12)	0	0	8,500	(8,500)	-0.56%
b Commission on Professionalism (page 12)	0	0		0	0.00%
c Judicial Receptions (page 12)	684	311		995	0.07%
d Lawyers Assistance Hotline (page 12)	31,740	14,435		46,175	3.05%

**STATE BAR OF NEW MEXICO**  
**Budgeted Statement of Chargeable and Non-Chargeable Expenses/Expenditures by Functional Category**  
**For the Year Ending December 31, 2009**

	Total Expenses	Allocated	non-dues funds	net amounts funded	percentage of dues
e Lending Library (page 12)	0	0		0	0.00%
f Mentorship (page 12)	0	0		0	0.00%
g Online Legal Research (page 12)	69,636	31,671	4,600	96,707	6.40%
5 Outreach					
a Diversity Committee (page 13)	10,000	4,548		14,548	0.96%
b President's Initiatives (page 13)	10,000	4,548		14,548	0.96%
c Membership Outreach (page 13)	5,000	2,274		7,274	0.48%
d ABA Day (page 13)	3,200	1,456		4,656	0.31%
e Leadership Development (page 13)	1,500	682		2,182	0.14%
f Department Marketing (page 13)	2,000	909		2,909	0.19%
6 Publications					
a Bar Bulletin (page 13)	352,780	232,496	233,225	352,051	23.28%
b Bench and Bar Directory (page 13-14)	74,690	49,223	101,075	22,838	1.51%
c New Mexico Lawyer (page 14)	5,380	3,546	5,800	3,126	0.21%
7 Sections (page 14)	90,950	41,365	47,430	84,885	5.62%
766,299					
<b>C Public and Legal Services Department</b>					
1 Administration (page 14)	81,675	21,628		103,303	6.83%
2 Other Public Service Initiatives (page 14)	900	409		1,309	0.09%
3 Public Service Program					
a Mock Trial (page 14)	7,500	1,986		9,486	0.63%
4 Young Lawyers Division Public Service Programs (page 14-15)	9,155	2,424		11,579	0.77%
125,677					
<b>D Regulatory Program</b>					
1 Administration (page 15)	89,110	23,597		112,707	7.46%
112,707					
<b>III</b>					
<b>LEGISLATIVE ACTIVITY</b>					
A Lobbying Approved by the Board of Bar Commissioners (page 15)					
B Sections' Lobbying Activities (page 15-16)					
<b>IV</b>					
<b>Non-Budgeted 2007 Expenditures (page 16)</b>					
<b>Non-Budgeted 2008 Expenditures (page 16)</b>					
<b>NON-CHARGEABLE</b>					
2009 Active Dues (over three years) - \$215; Active Dues Young Lawyers (second year) - \$165; Active Dues Young Lawyers (first year) - \$115					
See Summary of Significant Assumptions and Accounting Policies and Independent Accountant's Report.					
<b>V</b>					
<b>2009 Active Dues (over three years) - \$215; Active Dues Young Lawyers (second year) - \$165; Active Dues Young Lawyers (first year) - \$115</b>					
<b>See Summary of Significant Assumptions and Accounting Policies and Independent Accountant's Report.</b>					
<b>\$2,084,860</b>	<b>\$0</b>	<b>\$573,360</b>	<b>\$1,511,500</b>	<b>100.00%</b>	<b>\$1,511,500</b>

**STATE BAR OF NEW MEXICO  
SUMMARY OF SIGNIFICANT  
ASSUMPTIONS AND ACCOUNTING  
POLICIES YEAR ENDING  
DECEMBER 31, 2009**

**NATURE OF BUSINESS**

State Bar of New Mexico (State Bar) was incorporated under the laws of the State of New Mexico in 1978. Prior to 1978, State Bar operated as an agency of the Supreme Court of the State of New Mexico, established by State statute, dated March 17, 1925. The purposes of State Bar are to aid the courts in the administration of justice, to preserve the rule of law and to foster a high standard of integrity and competence within the legal profession. State Bar's activities include collection of dues; publication of the *Bar Bulletin* and *Bench and Bar Directory*; and development and promotion of programs such as legal research, membership programs, legal services to the public, public education and information, client protection, and law practice management and technology.

**NATURE OF PRESENTATION**

This budget presents, to the best of management's knowledge and belief, State Bar's expected statement of chargeable and non-chargeable expenses/expenditures by functional category. Accordingly, the budget presents management's judgment, as of November 6, 2008, the date of this budget, of the expected conditions and expected course of action. Management does not intend to update this budget. The assumptions disclosed herein are those that management believes are significant to the budget and may not be all-inclusive. There will usually be differences between budgeted and actual results, because events and circumstances frequently do not occur as expected. Those differences may or may not be material.

The budget document has been designed to provide to all members of the State Bar the anticipated cost of its 2009 activities, by functional category, which will be funded by mandatory dues. Accordingly, this document may not be useful for other purposes.

**SUMMARY OF SIGNIFICANT  
ASSUMPTIONS AND  
ACCOUNTING POLICIES**

**Deferred Revenues**

Dues, subscriptions, and advertising are recognized as revenue in the period to which they relate. Amounts collected in advance are recorded as liabilities until earned.

**Pledges and Contributions**

In 1991, the State Bar formed a 501(c)(3) corporation, State Bar of New Mexico Special Projects, Inc. (Special Projects), for the purpose of receiving grant awards from other 501(c)(3) entities for programs approved by the Board of Bar Commissioners and to accept contributions to construct a general office building (Bar

Center). In 2003, the New Mexico State Bar Foundation was dissolved as a corporation and State Bar of New Mexico Special Projects was renamed as the New Mexico State Bar Foundation (Bar Foundation). The two corporations, State Bar and State Bar Foundation, have interlocking boards.

Bar Center expenses are split between the two corporations based on the projected portion of ownership of the building. Due to the potential uncertainty of collection, a donor pledge is considered revenue when restrictions, if any, have been met, and the pledge has been collected.

**Property and Equipment**

Property and equipment are recorded at cost for purchased items and fair market value at the date of contribution for donated items.

**Depreciation/Amortization**

This statement has been prepared without regard to depreciation or amortization since the issues of chargeable and non-chargeable are considered in the year of purchase, or, in the event of debt-financed acquisitions, the period in which the commitment to make principal payments has been made.

**Income Taxes**

State Bar is exempt from income taxes under Section 501(c)(6) of the Internal Revenue Code.

**Basis of Presentation**

To ensure observance of limitations and restrictions placed on the use of resources available to State Bar, State Bar maintains its accounts in accordance with the principles of the Statement of Financial Accounting Standards (SFAS) No. 117, "Financial Statements of Not-for-Profit Organizations." Under SFAS No. 117, State Bar is required to report information regarding its financial position and accounting activities under three classes of net assets. In addition, State Bar's accounts are maintained on a functional basis, which retains activity detail on a program-by-program basis.

**Presentation Purpose**

The purpose of the statement is to provide members of State Bar with a statement that identifies the major functional categories of State Bar, and includes amounts for activities that are germane to advancing State Bar's regulatory functions and improving legal services (chargeable), as well as that portion of the expenses considered not to be reasonably related to regulating the profession or improving the quality of legal services (nonchargeable).

**Building Occupancy Costs**

In August 1996, State Bar moved into the newly constructed Bar Center. As joint owner of the Bar Center with the Bar Foundation, State Bar is responsible for its portion of the expenses incurred in operating and maintaining the building. (All of State Bar's costs related to the Bar Center have been captured and presented for the members' review in Note 9).



## CHARGEABLE

### I. STATE BAR GOVERNANCE, ADMINISTRATION AND ORGANIZATION

#### A. Board of Bar Commissioners

The Board of Bar Commissioners (the Board) is established by Supreme Court Rule 24-101C as the governing board of the State Bar. The Board is responsible for overseeing the Executive Director, Sections, Committees, Commissions, Divisions, and Task Forces and makes decisions to fulfill the mission of improving the quality of legal services to the citizens of New Mexico. The Board meets four to eight times a year; and in 2009, there will be four regularly scheduled meetings. While Board members receive no compensation, they do receive mileage and per diem allowances for travel, in accordance with the State of New Mexico and IRS travel policies.

The expenses for Board meetings are based on the assumption that during 2009, three Board meetings will be held in Albuquerque, one will be held in Las Cruces, and one will be held in connection with the Annual Meeting in Pojoaque, NM. Board Committees also conduct business by teleconference throughout the year.

In-state travel expenses for the President will cover attendance of certain Board Committee meetings and other State Bar business. Included within this item is travel for officers to attend various State Bar related activities, conferences and training programs. The 2009 travel for the President and President-Elect is based on the assumption that both will attend the NCBP (National Conference of Bar Presidents) Mid-Year (Boston) and Annual (Chicago) meetings; President and Vice president will attend the Western States Bar Conference (Hawaii); and the President-Elect and Sec-Treasurer will attend the Bar Leadership Institute (Chicago). In a continuing effort to prioritize the philosophical and programming decisions of the State Bar, the officers will hold a strategic planning session with the Directors in the fall of 2009. At this meeting, the officers will evaluate State Bar's progress in meeting its mission, goals and objectives, and will continue strategic planning for State Bar's future priorities and programs.

Awards are presented to recognize those who have distinguished themselves or who have made exemplary contributions to the State Bar. At the Annual Meeting there will be a dinner to honor past presidents of the Bar.

#### Board Expenses

Direct Labor Allocation .....	\$68,830
Meetings.....	45,000
Travel.....	21,405
Director's and Officer's Retreat.....	8,400
Past President's Dinner.....	8,000
Awards.....	3,500
Bar Bulletin Insert.....	815
Miscellaneous .....	400
Teleconferences.....	520
	<u>156,870</u>
Allocated G & A .....	41,540
Total Expenses.....	<u>(\$198,410)</u>

#### B. Capital Outlay

During 2009, State Bar intends to make the following principal payments and asset acquisitions. All related interest has been treated as an annual expense and is included in Bar Center occupancy expense or G & A expense, respectively.

#### Expenditures

Bar Center Mortgage Principal .....	\$94,220
Capital Lease Principal Payments:	
Copier.....	13,880
Mailing Machine.....	7,810
Software .....	2,000
Labeler.....	130
	<u>118,040</u>
Allocated G & A.....	31,258
Total Expenditures.....	<u>(\$149,298)</u>

#### C. Litigation

##### 1. General Litigation

State Bar does not anticipate any litigation expenses in 2009 beyond what is covered under the State Bar's insurance policy. A minimal amount of \$500 is budged for any miscellaneous matters that may require direct staff labor charges.

#### Expenses

Direct Expenses.....	\$500
Allocated G & A.....	132
Total Expenses.....	<u>(\$632)</u>

##### 2. Popejoy/Keller Challenge Procedure

In order to comply with the challenge procedures and time keeping requirements under *Keller v. State Bar of California*, 496 U.S. 1 (1989), and *Popejoy et. al. v. New Mexico Board of Bar Commissioners*, No. Civ. 92-1462 LH/LFG, State Bar anticipates that the following expenses may be incurred:

#### Expenses

Accounting/Budget Audit .....	\$9,300
Direct Labor Allocation	
(time keeping.....)	9,150
	<u>18,450</u>
Allocated G & A .....	4,886
Total Expenses.....	<u>(\$23,336)</u>



## II. STATE BAR ORGANIZATION

### A. Administration Department

General administration (G & A) expenses are incurred to provide staff and operational support for all programs and activities of the State Bar, including personnel, data management, printing, purchasing, membership records and status inquiries, member billing and elections, building management, mail, and implementation of Board policies.

State Bar employees are required to keep time sheets reflecting their daily activity so that specific programs may be charged the actual labor costs of staff services. The 2009 allocations of direct labor costs are based primarily on 2008 time studies and outside billings through June 2008. These direct costs are reflected in the budget for each program. Some staff time cannot be assigned directly to specific programs. For example, the Administration Department includes the accounting and data management functions. The costs of processing payroll checks and maintaining accounting records are not appropriate as a direct allocation to a specific program. To the extent general administration expenses cannot be billed directly to a program, the expenses are allocated on a pro rata cost basis to each program in the 2009 budget. This number is reflected under each program as "Allocated G & A." Administrative fee revenue represents amounts received by the State Bar for direct services provided. For instance, accounting and bookkeeping services are provided to MCLE, Legal Specialization, and Paralegal Division. Additionally, Foundation programs (Center for Legal Education, Public and Legal Services programs and Bar Center/ General) receive managerial support from State Bar. Duplication revenue outlined below represents copy fees (approximately four cents a page) charged to non State Bar entities for use of State Bar's copy machines.

#### 1. Administration

Administration consists of the executive office, accounting, human resources, the print shop, State Bar Center, systems and World Wide Web. Expenses for Administration Department are outlined as follows.

The Administration Department G & A activity not charged directly to a specific program has been allocated on a pro rata basis to each State Bar program as Allocated G & A is comprised of the following (see Note 2 for specific information regarding the distribution/allocation of direct salaries, taxes and benefits and Note 3 for the allocation of other G & A expenses):

#### Revenue

##### Administrative Fees:

Dues Late Fees .....	\$58,800
CLE .....	41,900
Section Forfeiture .....	40,000
Disciplinary Board .....	37,170
Court Reporting Programs Rent & Computer Support .....	21,895
PLSD .....	12,000
Client Protection .....	8,100
Video Conferencing .....	7,000
Duplication .....	6,500
PHV Fee for Collection & Administration .....	5,500

MCLE .....	5,000
Admin. Fees for Dues Collection .....	3,060
Interest on Bank Accounts .....	2,550
Miscellaneous .....	1,355
Paralegal Division .....	900
Equal Access to Justice .....	650
Specialization .....	600
Discounts Taken .....	500
Bar Foundation-General .....	300
NSF Fees .....	175
Total G & A Revenue .....	<u>253,955</u>

#### Expenses

##### Direct Labor Allocation

(see Note 2 and 3).....	411,335
Computer Contract .....	46,970
Bar Center Occupancy (see Note 9) .....	34,700
Insurance .....	33,115
Equipment Maintenance: .....	32,800
Audit .....	24,350
Training & ED & Staff .....	20,555
Auto Lease .....	14,990
Video Conferencing .....	10,800
Bank Fees .....	10,000
Telephone .....	9,000
Office/Duplicating Supplies .....	7,945
Advertising .....	5,800
Pension Plan Administration .....	5,000
Taxes and Fees .....	4,915
Staff Morale/Retreat .....	4,500
Interest on Capital Leases .....	4,325
Postage .....	3,000
Dues & Subscriptions .....	2,200
Shred-It .....	1,400
Internet.....	750
Errands .....	600
Interest .....	500
Miscellaneous .....	500
Printing .....	400
Total Administration Expenses .....	<u>690,450</u>
Net Administration .....	<u>(436,495)</u>
Less Allocated G & A .....	<u>436,495</u>
Total, Net .....	<u>\$0</u>

Activities charged to Administration G & A include:

- Accounting management
- Accounting/bookkeeping services performed for other entities
- Accounting research
- Accounts payable/check requests
- Archives maintenance
- Audit (year-end and annual budget)
- Communication with ABA, other national, state and local bars, and financial associations
- Computer assisted legal research
- Computer and network maintenance
- Correspondence and clerical
- Data entry and extraction
- Dues collection

- Equipment maintenance
- Errands/deliveries
- File maintenance
- General research
- Inventory management
- Interdepartmental forms, supplies and projects
- Interdepartmental projects and production
- Leaves/holidays (paid time off)
- Mail pickup, preparation and delivery
- Maintenance of press and production equipment
- Maintenance of State Bar database
- Management of dues collection
- Management of centralized computer system, personal computers, printers and modems
- Meetings/training
- Month-end billings
- Month-end close/financial reporting
- Office insurance policies
- Office supplies and inventory management
- Ordering production materials and supplies
- Overall programs and policy planning management
- Production cost outs (billing and charges related to production labor and materials)
- Receipt of checks
- Review and approval of revenue, expenses (accounts payable)
- Room rental and service
- Software training for staff
- Staff meetings
- Systems management

## 2. Accounting

Accounting functions are performed for State Bar, as well as other law-related entities, such as the Court Regulated Programs. The State Bar is reimbursed by these entities to prepare monthly financial statements, conduct annual audit and collect dues.

### a. Credit Card Fees

In order to enable its members to pay State Bar fees and registrations with credit cards, State Bar must incur a merchant fee between 1.6 and 3.8 percent of the credit card charges processed for VISA, MasterCard, American Express and Discover. 2009 fees are based on a reduction in merchant fees reflected in 2008.

#### Expenses

Credit Card Fees .....	\$17,000
Allocated G & A .....	4,502
Total Expenses .....	<u>(\$21,502)</u>

### b. Dues and Licensing Forms

In addition, accounting develops and mails the Dues and Licensing Forms to members for payment of dues, fees and contributions. Each new member also receives a permanent State Bar card from accounting.

#### Expenses

Dues & Licensing Forms .....	\$7,000
Allocated G & A .....	1,854
Total Expenses .....	<u>(\$8,854)</u>

## 3. Human Resources

Human resources functions include personnel hiring, monitoring employee benefits, payroll production and staff trainings.

#### Expenses

Staff Insert ( <i>Bar Bulletin</i> ) .....	\$1,000
Meetings .....	360
Dues and subscription .....	360
Director's Retreat .....	150
	<u>1,870</u>
Allocated G & A .....	495
Total Expenses .....	<u>(\$2,365)</u>

## 4. Print Shop Production

The State Bar has an in-house print shop that prints and mails the weekly *Bar Bulletin*, letterhead, brochures and a variety of publications for other law-related entities.

#### Expenses

Direct Labor Allocation (see Note 6) ..	\$46,310
Bar Center Occupancy (see Note 9) ....	16,900
Equipment Maintenance .....	10,000
Postage-Unallocated .....	500
Software .....	400
Training/Education .....	370
OSHA .....	200
Miscellaneous .....	200
Telephone .....	100
Contract Labor .....	150
Duplication .....	100
Dues & Subscriptions .....	85
	<u>75,315</u>
Less Allocated G & A .....	<u>(75,315)</u>
Total Expenses .....	<u>\$0</u>

### a. Outside Production

Outside production includes design/page composition, editing, printing and mailing services provided to law-related entities, Court Regulated Programs, Disciplinary Board, and the Bar Foundation. These projects include producing newsletters for sections and local/voluntary bars, CLE brochures, letterhead and other printed materials.

Revenue .....	\$32,000
Expenses	
Production Supplies .....	17,000
Production Labor/Benefits .....	10,195
Postage and Delivery .....	6,050
Direct Labor Allocation .....	360
	<u>33,605</u>
Allocated G & A .....	22,146
Total Expenses .....	<u>55,751</u>
Total, Net .....	<u>(\$23,751)</u>



## 5. State Bar Center

### a. Professional Development Center

The Bar Center's Professional Development Center (consisting of three classrooms) is available for outside groups, including government entities, Supreme Court committees and continuing legal education providers to rent to conduct courses and seminars.

Revenue (see Note 4) ..... \$120,500

#### Expenses

Direct Labor Allocation (see Note 2) ....32,400

Bar Center Occupancy (see Note 9) ....41,200

Food and beverages.....23,470

Telephone.....900

Errands.....400

Dues & Subscriptions.....35

98,405

Allocated G & A .....26,058

Total Expenses.....124,463

Total, Net.....(\$ 3,963)

### b. Conference Rooms, Visiting Attorneys' Offices, Computer Resource Room.

The Bar Center offers use of the rooms listed above as a service to members of the State Bar. They are also available to rent for interested parties.

#### Expenses

Bar Center Occupancy (see Note 9) ....\$37,700

Allocated G & A .....9,983

Total Expenses.....(\$47,683)

## 6. Systems

Systems maintains the State Bar membership database.

### a. Membership Lists

The membership list is available for the purpose of mailings to the membership. Labels or an electronic format of the membership database are sold to the membership as well as to outside entities. A copy of the Board policy regarding the membership list is available upon request.

#### Revenue

Sales.....\$7,500

Contra Tax Account Gross Receipts.....(180)

Total .....\$7,320

## 7. World Wide Web Site

The State Bar's Web site, located at [www.nmbar.org](http://www.nmbar.org), contains information for its members and the public. Expenses include allocated labor and administrative expenses related to development and maintenance of the site. In addition to expanding information and services provided by the Web site, non-dues revenue generated by the Web site are expected to increase by 49 percent from 2008. Revenues include Web site advertising and the development, maintenance of sub-sites for other bar related entities and a products & services directory.

## Revenue

Advertising .....\$3,960

Administration and Dev. For

Other Entities .....3,050

Products & Service Directory.....5,900

Total Revenues .....12,910

## Expenses

Direct Labor Allocation (see Note 2) ....30,060

Web Technical Contract.....7,000

Supplies/Software.....300

37,360

Allocated G & A .....9,893

Total Expenses.....47,253

Total, Net.....(\$34,343)

## B. Membership and Communications Department

Services provided by the Membership and Communications Department include assistance to sections, committees, and divisions; writing, editing and design of State Bar publications; dissemination of media releases and responding to media requests; administration of association agreements for discounts on products and services provided by third-party vendors; and management of State Bar membership programs.

### 1. Administration

The G & A activity for the Membership and Communications Department has been allocated on a pro rata basis to the aforementioned. The resulting total (direct expense and allocated Membership and Communications G & A) is then included as the base amount to perform the allocation of Administration G & A. This Allocated G & A is comprised of the following (see Note 2 for specific information regarding the distribution/allocation of direct salaries, taxes and benefits and Note 6 for the allocation of other G & A expenses):

#### Expenses

Direct Labor Allocation (see Note 6) . \$76,640

Bar Center Occupancy (see Note 9) .....16,700

Insurance .....9,180

Training/Education .....4,490

Telephones.....2,700

Printing .....1,900

Annual Meeting .....1,315

Supplies .....1,300

Internet.....750

Computer Equipment M&R .....490

Postage .....400

Duplication .....385

Dues & Subscriptions.....205

Miscellaneous .....100

Total Expenses .....116,555

Less Allocated G & A .....(116,555)

\$0

Activities charged to Membership and Communications G & A include:

- Communications with other state and local bars regarding publications and communication services
- Departmental clerical/mail
- Department management
- General clerical
- Interdepartmental projects
- Leaves/holidays (paid time off)
- Liaison to statewide local and voluntary bars
- Personnel management
- Professional memberships, meetings, training and education
- Research
- Staff meetings
- State Bar historical library (records, photographs, videos, etc.)

## 2. Committees

For 2009, the State Bar is funding the following committees whose primary purposes are to improve the quality of membership services and to provide information and assistance to the public. Each committee is required to submit an annual budget, which is funded through a committee pool. The specific functions of these committees are shown as follows:

- a. **Alternative Methods of Dispute Resolution Committee (ADR).** Promotes the use of dispute resolution processes, and provides legal education and training in those methods.
- b. **Bench and Bar Relations Committee.** Plans the statewide bench and bar conference.
- c. **Board of Editors.** Serves as the editorial board for the *Bar Bulletin*.
- d. **Committee on Diversity in the Legal Profession.** Promotes opportunities for minorities in the legal profession and encourages participation by minorities in bar programs and activities.
- e. **Committee on Women and the Legal Profession.** Addresses issues affecting women as lawyers and judges and monitors substantive issues of women served by the legal system.
- f. **Committee for the Delivery of Legal Services to People with Disabilities.** Provides information and assistance to ensure access to counsel for people with disabilities.
- g. **Ethics Advisory Committee.** Assists attorneys with interpretation and application of the Rules of Professional Conduct. Advisory opinions are provided to requesting attorneys and are published in the *Bar Bulletin* and on the Bar's Web site.
- h. **Fair Judicial Elections Committee.** Created to monitor campaign statements, advertising and conduct in elections for judicial office for compliance with the standards of the Code of Judicial Conduct.
- i. **Historical Committee.** Acquires, maintains and submits for publication historical information relating to the State Bar.
- j. **Law Practice Management Committee.** Develops and provides resources for attorneys, especially solo and small

firm practitioners and young lawyers, to more effectively manage their law practices.

- k. **Lawyers Assistance Committee.** Provides confidential peer assistance to the State Bar members in need of help because of substance abuse, mental illness or emotional distress.
- l. **Lawyers Professional Liability Committee.** Advises the State Bar regarding risk management activities.
- m. **Legal Services and Programs Committee.** Facilitates cooperation and coordination of the legal services provided by various segments of the bar and increases public access to the civil justice system.
- n. **Medical-Legal Grievance Committee.** Attempts to resolve specific complaints between the two professions.
- o. **Medical-Legal Liaison Committee.** Addresses basic issues of mutual concern to the two professions: e.g., the Medical Malpractice Act.
- p. **Membership Services Committee.** Plans State Bar membership events that provide opportunities for members to network with each other and with those in other professions.
- q. **NM Medical Review Commission.** Attorney and physician panel members screen medical malpractice claims.
- r. **Technology Committee.** Assists State Bar members in issues that arise with the development and maintenance of established and forthcoming technology.

## Expenses

Direct Labor Allocation .....	\$20,100
Committee Pool .....	15,000
Committee Chair Orientation.....	500
	<u>35,600</u>
Allocated G & A .....	16,191
Total Expenses.....	<u>(\$51,791)</u>

## 3. Divisions

### a. Paralegal Division

The Paralegal Division was created as a division of the State Bar, although no funds are expended in support of the Division. The Paralegal Division is self-supporting through its member dues and programming.

### b. Senior Lawyers Division

The Senior Lawyers Division was created to foster professional development and to utilize the knowledge and experience of its members to assist the State Bar and its programs and activities. Programs for 2009 include assisting the State Bar's KOB-TV Call-In Program and conducting oral histories of senior members.



**Expenses**

Oral History Project .....	\$4,000
Presentation Meetings .....	2,000
ABA Meeting .....	2,000
Director Labor .....	1,350
Administrative Express .....	1,200
Judicial Service Awards .....	1,000
Board Meetings .....	300
	<u>11,850</u>
Allocated G & A .....	<u>5,389</u>
Total Expenses .....	<u>(\$17,239)</u>

**c. YLD Programs Providing Services to Members**

Conduct Membership Outreach. YLD will continue its membership outreach in 2009 by providing information and membership programs such as:

- Bar Exam Support Programs
- Bench/Bar Activities
- Career Fair
- CLE
- Hispanic National Bar Association Conference support
- Honors and Awards
- Law Day
- Law School Activities
- Membership Communication (Brochures and Mailings)
- Plaques
- Publications
- Networking
- Summer Fellowship
- Swearing-in Receptions
- UNM Law Student Programs

**Expenses**

Direct Expenses .....	\$17,550
Direct Labor .....	<u>1,463</u>
	<u>19,013</u>
Allocated G & A .....	<u>8,647</u>
Total Expenses .....	<u>(\$27,660)</u>

Administration. YLD administration includes expenses for meetings, out of state travel, postage, supplies and duplicating.

**Expenses**

Direct Expenses .....	\$16,000
Direct Labor .....	<u>1,332</u>
	<u>17,332</u>
Allocated G & A .....	<u>7,883</u>
Total Expenses .....	<u>(\$25,215)</u>

**4. Membership Services****a. Affinity Program**

Vendors participate in the State Bar's Affinity Program provide savings on products and services to members. Companies offering discounts on insurance, financial services, travel and office supplies, to name a few, participate.

Revenues .....	\$8,500
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**b. Commission on Professionalism**

Pursuant to the New Mexico Supreme Court Order that created a Commission on Professionalism in 2000, the Commission will continue its administrative and operational functions and responsibilities in 2009. In 2009, the Commission will serve as an advisory commission to oversee and develop programs, resources and services to support professionalism for New Mexico lawyers and judges. Center for Legal Education will administer the CLE program developed by the Commission. The Commission will receive support in 2009 from the State Bar general operating funds. The expenses are anticipated to be minimal.

**c. Judicial Receptions**

The Board receives requests of monetary support from the law-related groups to sponsor/cosponsor judicial receptions.

**Expenses**

Receptions .....	\$500
Direct Labor .....	<u>184</u>
	<u>684</u>
Allocated G & A .....	<u>311</u>
Total Expenses .....	<u>(\$995)</u>

**d. Lawyers Assistance Hotline**

The Lawyer Assistance Hotline provides professional and peer assistance to State Bar members in need of assistance for substance abuse, addictions, and depression. Direct costs are paid for counseling fees.

**Expenses**

Direct Expenses .....	\$23,200
Direct Labor .....	<u>8,540</u>
	<u>31,740</u>
Allocated G & A .....	<u>14,435</u>
Total Expenses .....	<u>(\$46,175)</u>

**e. Lending Library**

A library of publications and other resources is available to assist attorneys with general practice and law office management information.

**f. Mentorship**

The Bill Kitts Mentor Program matches applicants with experienced mentors for a mentorship experience designed to provide guidance to new practitioners.

**g. Online Legal Research**

The Board of Bar Commissioners has entered into a contract with Casemaker to provide free online legal research for State Bar members.

Revenue .....	\$4,600
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**Expenses**

Direct Expenses .....	\$50,900
Direct Labor .....	<u>18,736</u>
	<u>69,636</u>
Allocated G & A .....	<u>31,671</u>
Total Expenses .....	<u>101,307</u>
Total, Net .....	<u>(\$96,707)</u>

## 5. Outreach

The State Bar will conduct public and member outreach in 2009 to communicate bar programs and services and promote collaboration and support to voluntary and local bars. Specific outreach efforts have been identified for 2009 to include the following.

### a. Diversity Committee

A third study of Minorities in the Profession will be conducted by the State Bar's Diversity Committee for release in 2009. This study will be similar to the studies previously done in 10-year increments.

Expenses .....	\$10,000
Allocated G & A .....	4,548
Total Expenses.....	<u>(\$14,548)</u>

### b. President's Initiatives

Each year the Bar President decides to take on a project to improve the profession or professionalism in the profession.

Expenses .....	\$10,000
Allocated G & A .....	4,548
Total Expenses.....	<u>(\$14,548)</u>

### c. Membership Outreach

State Bar officers and staff will travel to local bar meetings throughout the state in 2009 to discuss bar services and programs and hear issues of importance to members.

Expenses .....	\$5,000
Allocated G & A .....	2,274
Total Expenses.....	<u>(\$7,274)</u>

### d. ABA Day

Two New Mexico representatives will attend the national American Bar Association's ABA Day in Washington to impress upon legislators the importance of attorneys and the legal community. This is an annual event.

Expenses .....	\$3,200
Allocated G & A .....	1,456
Total Expenses.....	<u>(\$4,656)</u>

### e. Leadership Development

The State Bar is asked on occasion to support law student and other law-related activities to benefit future leaders in the New Mexico. These activities have included event sponsorship for law student groups and conference attendance for members.

Expenses .....	\$1,500
Allocated G & A .....	682
Total Expenses.....	<u>(\$2,182)</u>

### f. Department Marketing

Budgeted funds will be used for printed materials promoting member benefits and services. The materials will be on display in the State Bar lobby; mailed with the bar dues and licensing form;

and distributed at swearing-in ceremonies, the annual meeting and other appropriate events. In addition, promote programs assigned to the office of general counsel among the attorney membership, non-admitted attorneys and members of the public. Promotions to include printing, mailings, publications, sponsorships, marketing and travel.

Expenses .....	\$2,000
Allocated G & A .....	909
Total Expenses.....	<u>(\$2,909)</u>

## 6. Publications

The Membership and Communications Department and the Print Shop produce numerous publications for State Bar and its members, as well as for Sections, Committees and Divisions. The direct and indirect costs are identified below and under the State Bar G & A, Sections, Committees and Divisions' categories and descriptions (see Note 6).

### a. Bar Bulletin

The *Bar Bulletin* is a weekly publication containing advance opinions of the New Mexico Supreme Court and the Court of Appeals, as well as rules, notices, announcements, and classified advertisements.

Revenue	
Advertising (see Note 6) .....	\$239,425
Subscriptions .....	10,000
Contra Tax Account-Gross Receipts. ....	<u>(16,200)</u>
Total Revenues	233,225

Expenses	
Printing .....	109,500
Postage and Delivery .....	97,690
Production Labor and Benefits .....	86,400
Contract Labor .....	32,000
Direct Labor Allocation .....	27,190
	<u>352,780</u>
Allocated G & A .....	232,496
Total Expenses.....	<u>585,276</u>
Total, Net.....	<u>(\$352,051)</u>

### b. Bench and Bar Directory

The *Directory* is a complete listing of the membership of the State Bar with addresses, telephone and fax numbers, e-mail addresses and employer/firm names. The *Directory* also includes a listing of State Bar-related entities; rules relevant to the practice of law; a listing of State Bar sections, committees, and divisions; the judiciary; the Board; other State Bar-related information; government offices; and tribal courts. The publication also contains advertisements. Revenue related to advertising and sales are anticipated to remain the same.

Revenue	
Subscriptions .....	\$62,000
Advertising .....	46,375
Contra Tax Account-Gross Receipts ...	<u>(7,300)</u>
Total Revenues	101,075



<b>Expenses</b>	
Printing.....	47,800
Postage and Delivery.....	13,100
Production Labor and Benefits.....	7,150
Direct Labor Allocation.....	6,640
	74,690
Allocated G & A.....	49,223
Total Expenses.....	123,913
Total, Net.....	<u>(\$22,838)</u>

#### c. *New Mexico Lawyer*

The *New Mexico Lawyer* is a special insert, produced by the board of editors, which appears quarterly in the *Bar Bulletin*. The goal of each issue is to present articles and essays which explore a current topic that is of interest to a broad segment of our legal community.

<b>Revenue</b>	
Advertising.....	\$6,200
Contra Tax Account-Gross Receipts.....	(400)
Total Revenues	5,800

<b>Expenses</b>	
Printing.....	2,220
Production Labor and Benefits.....	1,600
Postage and Delivery.....	1,560
	5,380
Allocated G & A.....	3,546
Total Expenses.....	8,926
Total, Net.....	<u>(\$3,126)</u>

#### 7. Sections Administration

The State Bar has 19 sections relating to areas of law or types of practice. The sections are funded with voluntary dues paid for by their members. Total fees collected in 2009 are expected to be the same as those collected in 2008. The State Bar provides administrative support to each section. Administrative time is spent to process dues payments; maintain records; advise members on State Bar/section policies and procedures; administer elections; facilitate submission of annual budgets to the executive director and provide members with monthly financial statements; facilitate submission of annual reports and agenda items to the Board of Bar Commissioners; take care of logistical aspects of meeting planning; assist with surveys of members; aid in communication among members and to the public through the sending of e-blasts, postings to the State Bar Web site, publication of newsletters, publication of announcements in the ENews and the *Bar Bulletin*, sending of mailings; and the sending of news releases to the media. Sections are permitted to lobby the legislature on law-related subjects, provided such lobbying complies with Article XI of the State Bar Bylaws and is not identified as being sponsored by the State Bar.

Revenue (see Note 5).....	\$47,430
<b>Expenses</b>	
Section Expenses.....	47,430
Direct Labor Allocation.....	43,020
Section Chair Orientation.....	500
	90,950

Allocated G & A.....	41,365
Total Expenses.....	132,315
Total, Net.....	<u>(\$84,885)</u>

### C. Public and Legal Services Department

#### 1. Administration

The Public and Legal Services Department (PLSD) of the State Bar of New Mexico provides programs, activities and opportunities for both members of the bar and the public. The department manages the public and legal service programs of the State Bar and New Mexico State Bar Foundation. Programs include: (see Note 7)

- Lawyer Referral for the Elderly Program (LREP), which has a legal helpline, outreach and referral program and
- Outreach/Referral and Education Services which includes legal helplines, information, referrals, public education and outreach programs of the State Bar and Bar Foundation.

<b>Expenses</b>	
Direct Expenses.....	\$81,675
Allocated G & A.....	21,628
Total Expenses.....	<u>(\$103,303)</u>

#### 2. Other Public Service Initiatives

PLSD assists with special initiatives for the public, from time to time, that include programs to address issues such as cancer and HIV/AIDS. Also, the State Bar supports the Law Day activities.

<b>Expenses</b>	
Direct Expenses.....	\$900
Allocated G & A.....	409
Total Expenses.....	<u>(\$1,309)</u>

#### 3. Public Service Programs

Public Service Programs secure and coordinate volunteers, provide administrative support, and work with schools across the state on law related education projects such as Mock Trial, Dialogue on Freedom, Classroom Law Project, and others. Membership support includes direct contributions, as approved by the Board, to Mock Trial.

##### a. Mock Trial

<b>Expenses</b>	
Direct Expenses.....	\$7,500
Allocated G & A.....	1,986
Total Expenses.....	<u>(\$9,486)</u>

#### 4. Young Lawyers Division Public Service Programs

The Young Lawyers Division (YLD) provides opportunities for new lawyers to engage in public service. YLD plans to continue the following public legal service projects already in place:

- FEMA
- Call-In Programs
- Homeless Legal Clinic
- YLD Summer Fellowship

#### Expenses

Direct Expenses.....	\$9,155
Allocated G & A.....	2,424
Total Expenses.....	<u>(\$11,579)</u>

### D. Regulatory Program

#### 1. Administration

The Office of General Counsel is a professional office established to assist the State Bar of New Mexico and the New Mexico State Bar Foundation with policy and regulatory functions of an integrated bar. Specifically, to protect the legal and policy interests of the State Bar; assist in the expansion of the regulatory functions; provide a professional legal resource for leadership, volunteers and staff; assist with outreach to the judiciary; and to advise in the areas of legislative, executive and judicial processes. In addition to the internal support provided to the State Bar, Bar Foundation, Leadership, Volunteers and Staff, the following programs have been assigned to the Office of General Counsel to advise, manage, staff and provide support:

- Attorney (Member/Non-admitted) Helpline: provides members of the Bar and non-admitted attorneys information in areas of attorney regulation, registrations, rules and practice.
- Client Assistance Helpline: assists members of the public in their relationship with their attorney, including advising on issues such as communication, billing, client files and fee disputes.
- Client Protection Fund: administers the Client Protection Fund Commission which investigates claims against lawyers on issues regarding reimbursable losses caused by a lawyer's misappropriation of client funds or other dishonest conduct.
- Ethics Assistance for Attorneys: Includes the following:
  - Advisory Helpline providing quick ethics answers to questions posed to the ethics helpline at 1-800-326-8155.
  - Ethics Advisory Opinions are archived and can be searched by date of issue or by topical index on the State Bar's website at [www.nmbar.org](http://www.nmbar.org).
  - Ethics Advisory Committee assists lawyers with questions regarding one's own conduct in relation to the New Mexico Rules of Professional Conduct. The committee provides written formal and informal responses to inquiries from the membership.
- Fair Judicial Elections Committee: educates candidates for judicial office on the existence and content of rules applicable to judicial election campaigns, assists candidates in understanding and complying with those rules, monitors and investigates campaign statements and advertisement for compliance with the rules.
- Fee Arbitration Program: provides fee arbitration to resolve fee disputes between attorneys and their clients or disputes between attorneys. This free program is designed to provide an efficient and confidential alternative to litigation.
- Lawyers Assistance Program: assists lawyers with mental illness, emotional distress and substance abuse with the support they need. The free confidential 24 hour helpline is (800) 860-4914 or (505) 228-1948.

- Lawyers Professional Liability Committee: advises the State Bar regarding Risk Management activities and provides information on professional malpractice insurance for members.
- Pro Hac Vice: advises non-admitted lawyers wishing to appear before a New Mexico court in a civil matter. The General Counsel's office receives and tracks all registration certificates. Fees collected under the Pro Hac Vice rule are used to support the delivery of civil legal services to the poor in New Mexico.

#### Expenses

Direct Labor Allocation	
(see Note 2 and 3) .....	\$64,460
Bar Center Occupancy (see Note 9) .....	7,100
Training/Education .....	6,100
Risk Management .....	3,300
Insurance .....	2,900
Dues & Subscriptions.....	1,650
Postage.....	1,300
Telephone .....	1,200
Supplies .....	500
Audit .....	400
Printing .....	200
	<u>89,110</u>
Allocated G & A.....	23,597
Total Expenses.....	<u>(\$112,707)</u>

### III. Legislative Activity

#### A. Lobbying Approved by the Board of Bar Commissioners

The Board has determined that it may undertake necessary lobbying activities with the State Legislature in 2009; however, specific efforts will be reported to the membership if and when lobbying activities are approved by the Board, consistent with Bylaws, Article XI. No mandatory dues have been allocated for lobbying activities in 2009. In the event that lobbying activities are approved and subsequently reported to the membership in 2009, lobbying efforts will be conducted by volunteers or will be paid from voluntary contributions received in prior years and previously set aside for lobbying. As in the past, the Board may also write to the Congressional delegation in support of legal services funding. A copy of the Lobbying Policy is available on request.

#### B. Sections' Lobbying Activities

Sections are funded by voluntary dues. Sections may engage in lobbying activities within the area of legal expertise of the section. The activity may include content-neutral assistance or lobbying for or against legislation. State Bar Policy 7.2(E)(2) requires that prior to lobbying, the section must obtain a two-thirds vote of the section's board of directors after giving reasonable notice to the section membership and the Board of Bar Commissioners. The Board can disapprove requests for section lobbying only if the section did not follow the procedures for giving notice to the section members and voting by the section directors. When a section lobbies, its views are not represented as those of State Bar, and the representatives are required to identify their position as those of the section and not of the State Bar. The only staff support



given to section lobbying is to ensure that the procedures in Policy 7.2(E)(2) are followed. Because the Board does not consider this staff activity to be lobbying, neither staff time nor overhead associated with these activities are identified in the budget.

#### IV. 2007 Non-Budgeted Expenditures

There were no material non-budgeted expenditures incurred in 2007.

#### V. 2008 Non-Budgeted Expenditures

Any material 2008 non-budgeted expenditures approved by the Board of Bar Commissioners will be reported in the 2010 Budget Disclosure Document. At that time, any such expenditures will have been audited as part of the 2008 annual audit of the financial statements.

#### NONCHARGEABLE

The Board of Bar Commissioners has determined that all of the proposed expenditures for 2009 are necessary or reasonably related to the legal profession or improving the quality of legal services to the people of the state of New Mexico and, therefore, all dues related expenditures are chargeable to fees for all members.

#### Note 2. Distribution/Allocation of Direct Salaries, Taxes and Benefits

Direct labor distributions and allocations were based on daily time sheets designed to track State Bar staff time by specific State Bar programs. Unassigned staff time was valued and reflected as a component of general and administration (G & A). Departmental G & A was then allocated to activities of that department in a manner consistent with Judge Burciaga's "Second Order" (see Note 8). Administration time that can be identified with related matters such as personnel, accounting, etc., is allocated as follows:

- Allocation of labor costs related to personnel matters is allocated based on the ratio of departmental employees to total employees. This ratio is set based on the full-time equivalent employees as of June 30, 2008.
- Allocation of State Bar labor costs related to the preparation for and participation in the year-end annual audit of State Bar and related entities is based on the relationship of the aggregate of budgeted non-dues revenue and direct out-of-pocket expenses by specific activities in relationship to the whole.
- Allocation of State Bar labor costs related to the collection of the annual dues is based on the ratio of members in each entity in relationship to the total for all entities.
- Allocation of direct State Bar labor costs related to the month-end close of the general ledgers of each of the State Bar activities related entities is based on the relationship of the aggregate of budgeted non-dues revenue and direct out-of-pocket expenses by specific activities in relationship to the whole.

#### Note 3. General Administration Labor & Benefits Expense Distribution

Gross salary and benefits related to the Executive Offices, Systems Office and Accounting Office have been accounted for, and/or charged, in the following manner:

Gross Salary and Benefits .....	\$521,550
Less Amounts Charged Directly to	
State Bar-Interdepartmental	
Direct Labor .....	(110,215)
Amount to General Administration,	
Administration Office .....	\$411,335

#### Note 4. State Bar Center Professional Development Center

##### Professional Development Center

The Bar Center space owned by State Bar provides three classrooms and three conference rooms. The classrooms are rented as three individual rooms or as one double room and one single room. During 2008 these classrooms were rented by CLE and numerous third-party entities, including an annual contract with the University of New Mexico (UNM). Management believes that UNM will renew the contract and anticipates an increase in the use of the Bar Center in 2009. "Food and beverage" itemized below includes direct costs for food and beverages (page 9), labor expenses for inventory and to order food and beverages from third party entities. Rental fees will remain the same in 2009. Projected revenues for 2009 are as follows:

CLE and Third-Party Utilization .....	\$70,000
Other Entities .....	11,000
UNM Estimated Utilization .....	5,000
Food and Beverage Sales .....	30,500
Equipment Rental .....	8,000
Contra Tax Account-Gross Receipts .....	(4,000)
	<u>\$120,500</u>

##### Bar Center

Expenses of the Bar Center consist of occupancy, contract and direct labor, and an allocated portion of indirect costs. Bar Center occupancy is allocated based on total square footage used (see Note 9).

#### Note 5. Membership Services

##### Committees, Divisions and Sections

Direct expenses are charged to the following programs: Senior Lawyers Division, Young Lawyers Division, Sections, State Bar G & A, and committees. Direct expenses prior to direct labor allocations have been forecasted based on individual budgets generated by the respective committees and divisions. The total committees' budget does not exceed the gross budget approved by the Board. Sections direct expenses have been projected to equal forecasted revenues.

## Annual Meeting

Note: The Annual Meeting will be held in Pojoaque, NM and is in the New Mexico State Bar Foundation's budget under the Center for Legal Education funding for 2009. Minimal Bar dues will be expended on the annual meeting.

## Commission on Professionalism

The Commission on Professionalism will continue its administrative and operational functions and responsibilities in 2009. The Bar Foundation's Center for Legal Education will administer the CLE program developed by the Commission. The Commission will receive funding in 2009 from the general operating funds to promote professionalism. Expenses for the Commission in 2009 will include travel expenses to cover the cost for one State Bar representative to attend a national conference on professionalism and include outreach related to professionalism throughout the state.

## Sections

State Bar encourages attorneys to become actively involved in programs that explore substantive issues related to specific practice areas. Members may join sections specifically devoted to these issues. Separate accounts are maintained for the operations of each section. All funds are raised by State Bar members' section dues. Section revenue is derived from voluntary fees paid by members requesting to join particular sections. The 2009 section membership revenue is based on the 2008 activity.

Projected 12/31/08	
Section Membership .....	2,860
Average Fee per Section .....	\$16.58
Projected 2008 Section	
Membership Revenue (rounded) .....	<u>\$47,430</u>

## Note 6. Publications

### A. Revenue

#### *Bar Bulletin* (weekly)

As discussed in Note 1, in 2009, membership publications will include a weekly publication, the *Bar Bulletin*. Advertising revenue resulting from this publication has been budgeted based on the following assumptions:

#### Advertising

Weekly <i>Bar Bulletin</i> :	Full Page Equivalent Advertising	Forecasted Revenue
Display Ads	6.5	\$143,300
Classified Ads	2.5	84,800
Inserts		11,325
Advertising		<u>239,425</u>
<b>Subscriptions:</b>		
<i>Bar Bulletin</i>		10,000
		<u>249,425</u>
Less Related Gross Receipts Tax (rounded)		<u>(16,200)</u>
Total Revenue .....		<u>\$233,225</u>

2009 *Bar Bulletin* advertising revenue is projected to decrease by 19% from the forecasted 2008 revenue amounts. Twelve inserts are expected be sold at \$940 per insert in 2009.

### Bench and Bar Directory

The publication also contains advertisements. Revenue related to advertising and sales are projected to remain the same in 2009.

#### Revenue

Forecasted 2009 Advertising .....	\$46,375
Forecasted Directory Sales .....	<u>62,000</u>
2009 Forecasted Bench and Bar Directory .....	108,375
Less Related Forecasted Gross Receipts Tax .....	<u>(7,300)</u>
2009 Forecasted Bench and Bar	
Directory Revenue, Net .....	<u>\$101,075</u>

### B. Expenses

Expenses for the Publications are categorized as follows:

- Direct material expense
- Direct labor expense
- Office overhead, representing expenses that are not directly attributable to a particular production project. The publications expenses were adjusted to reflect a marginal four percent rate of inflation.

### Publication

#### Labor and Benefits Expense Distribution

Administration, Membership and Communications and the Print Shop departments charge direct labor and related benefits to projects based on the actual hours captured by internal job sheets. Labor and benefits for publications has been calculated at a rate of 48 percent from the Membership and Communications Department and 52 percent from the Administration and Print Shop production. The percentages were estimated from the production jobs completed in 2008. Any remaining uncharged amounts are charged to appropriate line items or the department's G & A (see Note 2 regarding the distribution/allocation of direct salaries and benefits). The above method of accounting resulted in the following:

Account	Administration Production	Membership & Communication	Total Amount
Distribution			
Gross Salary and Benefits	\$61,725	\$215,515	\$277,240
Less:			
<i>Bar Bulletin</i> ,			
Labor Expense	48,970	37,430	86,400
<i>Bench and Bar Directory</i> ,			
Labor Expense	365	6,785	7,150
<i>New Mexico Lawyer</i>			
Labor Expense	375	1,225	1,600
Outside Production,			
Labor Expense	5,165	5,030	10,195
	54,875	50,470	105,345
Amounts Charged Directly from State Bar-Interdepartmental			
Direct Labor	(39,460)	88,405	48,945
Amount to G & A (rounded)	<u>\$46,310</u>	<u>\$76,640</u>	<u>\$122,950</u>



Print Shop/Production Department G & A is allocated to divisional activities based on a percentage of total production expenses to all projects generated by the division, such as the *Bar Bulletin* and *Bench and Bar Directory*. Allocated G & A forecast to be charged to each project in 2009 represents approximately 68 percent of a project's direct labor cost.

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#### Note 7. Public and Legal Services Department

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The Public and Legal Services Department (PLSD) manages the following programs: Bridge to Justice Legal Assistance Programs, Lawyer Referral for the Elderly Program (LREP), Public Service Programs of the State Bar of New Mexico and the Young Lawyers Division (YLD). State Bar's support to PLSD in 2009 will be in the form of an in-kind commitment and a contingency for direct funding to continue the services provided by the department.

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#### Note 8. Second Order

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On January 25, 1994, Judge Burciaga, in *Popejoy v. New Mexico Board of Bar Commissioners*, entered a second order ("Second Order") requiring the State Bar to further allocate the functional category "General Administration" (G & A) to specific State Bar programs. Pursuant to the Second Order, G & A has been allocated based on a pro rata relationship of gross program expenses/expenditures and deferrals, net of depreciation, to the State Bar total expenditures. G & A represents the indirect expenses associated with the Production, Membership and Public Resources, Administration and Referral and Public Service. To the extent components of G & A were associated with a specific function, that component of G & A was specifically allocated to activities of that function. For example, Production represents salaries and other expenses devoted exclusively to administration of the State Bar publications. All G & A expense for Production was allocated on a pro rata cost basis solely to Production. In the event a particular Production challenge is honored, that individual activity will be allocated its respective pro rata share of the indirect G & A.

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#### Note 9. Land, Ownership, Bar Center

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State Bar and New Mexico State Bar Foundation hold ownership in the Bar Center as tenants-in-common. Foundation funding for its share of the Bar Center is provided through cash donations received specifically for the Bar Center. As remaining outstanding pledges are collected by the Foundation, the Foundation will continue to acquire ownership interest in the Bar Center from State Bar. It is expected that the Foundation will own 36 percent of the Bar Center. State Bar's ownership percentage has been provided through its contribution of approximately 2.2 acres of land for the Bar Center site and the assumption of approximately \$1,589,000 in mortgage debt. Payment of this debt is anticipated to be liquidated through the sale of building interest to the

Foundation, building space rental receipts, and the collection of \$25 active members' dues and \$10 young lawyer members' dues as authorized in 1989 by the New Mexico Supreme Court. During 1996, Continuing Legal Education of New Mexico, Inc. (CLE) merged into Special Projects (now the New Mexico State Bar Foundation). In 1997, the Lawyers Care Referral Program was transferred from State Bar to what is now the Bar Foundation. For the purposes of identification and designation of the Bar Center floor space for 2009, Bar Foundation activities include CLE, and Public and Legal Services Programs, as well as rental of the auditorium. This program allocation is consistent with 2008 allocations. During 1998, the Bar completed construction of approximately 2,000 square feet of previously unfinished building space. The Bar Center building now provides 23,865 square feet of usable space. State Bar has fiscal responsibility for 15,300 square feet of that office space based on projected 2008 ownership percentages. In 2002, State Bar closed on the refinance of its Bar Center. The current mortgage loan provides for a seven year amortization at a fixed rate of six and one-half percent. Previously, the Bar Center mortgage was amortized over a 15 year period, at eight and one-quarter percent interest. Late in 2008 the Bar refinanced the mortgage for \$800,000 at 6.25% for 7 year loan. Based on the projected building ownership percentages for 2005, the State Bar will be responsible for approximately 64 percent of building utilities, maintenance and personnel. With the refinance, principal and interest due the bank in 2009 are estimated to be approximately \$94,220 and \$46,960 respectively. Since the entire outstanding loan was used to finance the State Bar's ownership percentage in the Bar Center, 100 percent of the related interest and principal obligations are the responsibility of the State Bar. Principal obligations are the responsibility of the State Bar.

#### Expenses/Expenditures, net of allocation to Bar Foundation

Utilities .....	\$31,350
Building Interest .....	46,960
Janitorial and Supplies .....	21,710
Repairs and Maintenance .....	25,605
Real Estate Taxes.....	12,760
Landscape Maintenance.....	6,045
Direct Labor.....	10,010
Property Insurance.....	3,760
Total State Bar Building Occupancy Cost.....	<u>\$158,200</u>

#### Departmental Occupancy Allocations:

	Sq. Ft.	
Professional Development Center .....	3,980	(\$41,200)
Conf. Rooms, Visiting Atty. Offices .....	3,646	(37,700)
Administration .....	3,363	(34,700)
Print Shop/Production .....	1,650	(16,900)
Member and Communications		
Department .....	1,606	(16,700)
General Counsel.....	681	(7,100)
EAJ.....	374	(3,900)
Total, Net .....	<u>15,300</u>	<u>(\$158,200)</u>

**Challenges to the 2009  
Budget Proposal**

TO: Executive Director, State Bar of New Mexico  
5121 Masthead NE • PO Box 92860  
Albuquerque, NM 87199-2860

FROM: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*I challenge the following expenditures: (Use additional paper as necessary)*

SBM  
STATE BAR OF MICHIGAN

\_\_\_\_\_  
*Signature*

**Postmarked on or before December 9, 2008.  
Delivered in person or by fax (505) 797-6019**