

President Toy called the State Bar of Michigan (SBM) Board of Commissioners meeting to order at 1:25 p.m. on Wednesday, September 29, 2010 at the Amway Grand Plaza Hotel in Grand Rapids.

Commissioners present:

Danielle Mason Anderson

David R. Brake

Lori A. Butteweg

Laura Chappelle

B. D. "Chris" Christenson

Margaret A. Costello

Bruce A. Courtade, Secretary

Richard L. Cunningham

Brian D. Fithom, Treasurer

James N. Erhart

Elias J. Escobedo, Jr.

Julie I. Fershtman, Vice President

Stephen J. Gobbo

W. Anthony Jenkins, President-Elect

Elizabeth M. Johnson

David A. Kallman

Donald E. McGinnis, Jr.

Maureen M. McGinnis

Hon. William B. Murphy

Lambro Niforos

Lawrence P. Nolan

David A. Perkins

Victoria A. Radke

Michael J. Riordan

Donald G. Rockwell

Thomas C. Rombach

Kurt L. Schnelz

Richard J. Siriani

Angelique Strong Marks

Julie A. Sullivan

Laurin' C. Roberts Thomas

Charles R. Toy, President

Gregory L. Ulrich

Commissioners absent and excused:

There were none.

State Bar Staff present:

Janet Welch, Executive Director

Margaret Bossenbery, Executive Coordinator

Nancy Brown, Director, Membership Services & Communications

Gregory Conyers, Jr., Diversity Director

Candace Crowley, External Development Director

Dawn Evans, Director, Professional Standards

Cliff Flood, General Counsel

Danon Goodrum Garland, Investigative Counsel

James Horsch, Director, Finance and Administration

Elizabeth Lyon, Governmental Relations Director

Nkrumah Wynn Johnson, Service Counsel

Anne Smith, Administrative Assistant

Mike Smith, Communications Designer

Naseem Stecker, Media and Public Relations Manager

Anne Vrooman, Research and Development Director

Guests:

Robert J. Buchanan, Commissioners, 2010-2011 SBM Board of Commissioners

Dennis M. Barnes, Commissioner, 2010-2011 SBM Board of Commissioners

Nancy Diehl, Past President of the State Bar of Michigan

Edward L. Haroutunian, Commissioners, 2010-2011 SBM Board of Commissioners

Susan Licata Haroutunian

Ronald D. Keeffe, Past President of the State Bar of Michigan

Edward H. Pappas, Past President of the State Bar of Michigan

Maha Schnelz

Hon. Cynthia Diane Stephens

Mary Ellen Toy

Dana Warner, Candidate for 2010-2011 SBM Representative Assembly Clerk

Consent Agenda

Minutes

The Board received the minutes from the July 23, 2010 Board of Commissioners meeting
The Board received the minutes from the July 13 and the August 17, 2010 Executive Committee Meetings.

President's Report, Charles R. Toy, President

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

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

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

Professional Standards, Bruce Courtade, Chairperson

The Board received the Client Protection Fund Claims.

Finance, Brian Einhorn, Chairperson

The Board received the FY 2010 Financial Reports through August, 2010, and the FY 2010 Financial Forecast.

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

COMMISSIONER COMMITTEES

Finance, Brian D. Einhorn, Chairperson

Mr. Einhorn provided the Board with a financial update and forecast.

Mr. Einhorn offered a motion to approve minor changes to the SBM Investment Policy. The motion was supported and adopted.

Mr. Einhorn reported that a committee was appointed to review the insurance policies that the SBM currently has in place and offered a motion to adopt the recommendations received from the committee. The motion was supported and adopted.

Professional Standards, Bruce A. Courtade, Chairperson

Mr. Courtade asked Ms. Goodrum Garland to provide the Board with a report about Trust Account Overdraft Notification (TAON) rule. Ms. Goodrum Garland informed the Board that the TAON rule went into effect on September 15 and that 138 in state financial institutions are on the SBM approved list. She reported that the Attorney Grievance Commission had received thirty two reports to date.

Mr. Courtade reported to the Board that the Nominations sub-committee, consisting of Ms. McGinnis, Mr. Siriani (Chair), and Ms. Roberts Thomas, provided the Professional Standards Committee with their recommendations for the SBM appointments to the Institute for Continuing Legal Education Executive Committee and the Michigan Indian Legal Services Board of Trustees. The recommendations were unanimously approved.

Mr. Courtade offered a motion to approve the appointment of Sheila Robertson Deming to the Institute of Continuing Legal Education (ICLE) Executive Committee. Motion supported and adopted.

Mr. Courtade offered a motion to approve the appointment of Lynnmarie Johnson and John Lemire to the Michigan Indian Legal Services Board of Trustees. Motion was supported and adopted.

Ms. Courtade asked Ms. Evans to discuss agenda item VIII. C, Approval of RI – 350. Ms Evans informed the Board that the Professional Ethics Committee issued an informal opinion that clarifies Formal Opinion R-10. To the extent that RI-350 clarifies R-10 without purporting to overturn it, the Committee brings this informal opinion to the board for approval pursuant to Rule 8(D) of the Rules of the committee. Mr. Courtade offered a motion to approve the recommendation. Support was offered and the motion was adopted.

The Board deferred the discussion and action on the Unauthorized Practice of Law (UPL) complaints to a closed session at the end of the meeting

Programs and Services, Julie I. Fershtman, Chairperson

Ms. Fershtman provided an update on services provided to SBM members. She updated the Board on Casemaker, Liberty Mutual Insurance, Intercall, and Sprint.

Ms. Fershtman asked Ms. Vrooman to discuss two upcoming surveys that will be sent to SBM members. Ms. Vrooman informed the Board that the Economics of Law Practice survey will launch on Friday, October 1 and that a Membership Survey will be sent in the Spring 2011 that is tentatively expected to target the status of bar services and continuing legal education.

Ms. Fershtman reported to the Board that there were 1,000 members pre-registered for the Annual Meeting and that 225 members had pre registered for the Solo and Small Firm Institute.

Public Policy, Image and Identity, W. Anthony Jenkins, Chairperson

Reports

Mr. Jenkins reported that the Board was provided with a written report from the Justice Initiatives committee. Mr. Jenkins informed the Board that the Equal Access Committee is sponsoring an exhibit in the DeVos Center and the Pro Bono Committee is sponsoring a Diversity Reception on Thursday evening and hosting the Master Lawyers Section program on Friday.

Court Rules

2009-22 Proposed Amendments of Rules 7.212 and 7.215 of the Michigan Court Rules

A motion was offered and supported to adopt the amendments. The motion was adopted.

2010-16 Proposed Amendments of Rules 6.302 and 6.610 of the Michigan Court Rules

A motion was offered and supported to authorize the Criminal Issues Initiative and the Criminal Jurisprudence and Practice Committee to weigh in and advocate their respective positions to the court on this proposed change. The motion was adopted.

2010-21 Proposed Amendments of Rule 8.110 of the Michigan Court Rules

A motion was offered and supported to support this amendment. The motion was adopted.

2002-24 Proposed Amendment of Rule 7.3 of the Michigan Court Rules

Informational item only, no action was required by the Board.

Legislation

HB 5036

Strategic Lawsuits against Public Participation

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

HB 6101

Sensitive information - children

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

Other

The committee is asking the Board for support to co-sponsor an educational session on Cultural Competence and Effective Defense Representation. A Mini Training Session and Dialogue being held on Friday, October 29. Motion was offered and supported for the SBM to support this session. The motion was adopted.

LEADERSHIP REPORTS

President's Report, Charles R. Toy, President

Mr. Toy discussed the accomplishments of the Board during the 2009-2010 bar year, commented on his president's columns and offered his thanks to all of the Board members.

Executive Director's Report, Janet K. Welch, Executive Director
Judicial Crossroads Task Force

Ms. Welch introduced former President of the State Bar of Michigan, Ed Pappas. Mr. Pappas provided the Board with an overview and history of the Judicial Crossroads Task Force (JCTF), discussed the work of each of the four committees of the JCTF, and informed the Board that the JCTF will meet in October to vote on the final report.

Master Lawyers Section Bylaws

Ms. Welch provided the Board with the bylaws for the Master Lawyers Section.

A motion to support the formation of the Master Lawyers Section was offered and supported. The motion was adopted.

A motion to amend the SBM bylaws to include the Master Lawyers section was offered and supported. The motion was adopted.

Revised Mailing List Agreement

The Board received a memo discussing the current SBM mailing list agreement and a proposal to amend the current agreement. A motion was offered and supported to adopt the new agreement. Motion adopted.

Michigan State Bar Foundation Retirement Contract

A motion was offered and supported for SBM to enter into a contract with the Michigan State Bar Foundation to pay the SBM a lump sum amount to cover the health care costs for Ms. Rexer upon her retirement. The amount was determined based on actuarial data and will be paid to the SBM by the end of this fiscal year. The motion was adopted.

Litigation Status Report

The Board received a written copy of the Litigation Status report. No action was necessary.

Representative Assembly Report, Elizabeth M. Johnson, Chairperson

Ms. Johnson reported that preparation was underway for the September 30, 2010 Representative Assembly meeting. An AJJ fundraising event and a collection of canned goods for the local food bank are taking place as part of the meeting.

American Bar Association (ABA) Report, Reginald Turner, State Delegate

There was not a report.

Young Lawyers Section Report, Danielle Mason Anderson, Chairperson

The Board was provided with a written report from the Young Lawyers Section Chair.

Comments or questions from Commissioners

Ms. Radke asked that at future Annual Meetings wireless access be provided in the meeting rooms.

Comments or questions from the public

There were none.

Commission Resolutions

Laura Chappelle prepared and presented by Julie Sullivan
Chris B.D. Christenson prepared and presented Danielle Mason Anderson
Elizabeth M. Johnson prepared and presented Victoria Radke
Hon. William B. Murphy prepared and presented Bruce Courtade
Kurt Schnelz prepared and presented James Erhart and Don McGinnis
Gregory L. Ulrich prepared and presented by Margaret Costello

Recognition of President Charles Toy

President Elect Jenkins presented President Charles Toy with a scrapbook and plaque honoring his year as President of the State Bar of Michigan.

Adjournment

The meeting was adjourned at 4:25 p.m.