



Board of Commissioners

Agenda and Materials

July 26, 2024

**STATE BAR OF MICHIGAN
BOARD OF COMMISSIONERS
STATE BAR OF MICHIGAN BUILDING
Friday, July 26, 2024
9:30 A.M.
AGENDA**

State Bar of Michigan Statement of Purpose

“...The State Bar of Michigan shall aid in promoting improvements in the administration of justice and advancements in jurisprudence, in improving relations between the legal profession and the public, and in promoting the interests of the legal profession in this state.”

Rule 1 of the Supreme Court Rules Concerning the State Bar of Michigan

1. Call to Order.....Daniel D. Quick, President

CONSENT AGENDA

2. **Minutes**
A. June 14, 2024 Board of Commissioners meeting*
B. May 22, 2024 Executive Committee meeting*

3. **President’s Activities**.....Daniel D. Quick, President
A. Recent Activities*

4. **Executive Director’s Activities**.....Peter Cunningham, Executive Director
A. Recent Activities*

5. **Finance**..... Thomas H. Howlett, Chairperson
A. FY 2024 Financial Reports through May 2024*

6. **Professional Standards Committee**.....Erika J. Bryant, Chairperson
A. Client Protection Fund Claims*
B. Unauthorized Practice of Law Claims**
C. Institute of Continuing Legal Education Executive Committee Appointment**
D. Michigan Indian Legal Services Board of Trustees Appointments**

7. **Public Policy Committee** Joseph P. McGill, Chairperson
A. Model Criminal Jury Instructions*

ELECTION OF OFFICERS

8. **Secretary Election**Daniel D. Quick, President
A. David C. Anderson**
B. Suzanne C. Larsen**
C. James W. Low**
D. Gerard V. Mantese**
E. Gerrow (Gerry) Mason**

LEADERSHIP REPORTS

9. **President's and Executive Director's Report** Daniel D. Quick, President
 Peter Cunningham, Executive Director
 - A. Board Vacancy Appointment
 - B. Michigan Supreme Court Commissions Update
 - C. Artificial Intelligence Work Group Update
 - D. Native American Engagement Report
 - E. Staff Introductions
10. **Representative Assembly Report** Yolanda M. Bennett, Chairperson
11. **Young Lawyers Section Report** Tanya N. Cripps-Serra, Chairperson

COMMISSIONER COMMITTEES

12. **Finance** Thomas H. Howlett, Chairperson
 - A. FY 2025 Budget**
13. **Public Policy** Joseph P. McGill, Chairperson
 - A. Court Rules**
 - B. Legislation**
14. **Audit** Thomas H. Howlett, Chairperson
15. **Professional Standards** Erika L. Bryant, Chairperson
16. **Communications and Member Services** Lisa J. Hamameh, Chairperson
 - A. 50-Year Golden Celebration Report*
 - B. Great Lakes Legal Conference Report*

FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

17. **Comments or questions from Commissioners**
18. **Comments or questions from the public**
19. **Adjournment**

*Materials included with agenda.

**Materials delivered or to be delivered under separate cover or handed out.

STATE BAR OF MICHIGAN BOARD OF COMMISSIONERS MEETING MINUTES

President Quick called the meeting to order at 9:00 a.m. on Friday, June 14, 2024 in the Grand Pavilion Room at the Grand Hotel on Mackinac Island, MI.

Commissioners present:

David C. Anderson
Yolanda M. Bennett
Erika L. Bryant, Secretary
Aaron V. Burrell
Hon. B. Chris Christenson
Ponce D. Clay
Tanya N. Cripps-Serra
Robert A. Easterly
Nicole A. Evans
Sherrie L. Detzler
Hon. Kameshia D. Gant
Lisa. J. Hamameh, Vice President
Thomas H. Howlett, Treasurer
Suzanne C. Larsen
Joshua Lerner
James W. Low

Silvia A. Mansoor
Gerard V. Mantese
Gerrow D. “Gerry” Mason
Joseph P. McGill, President-Elect
Thomas P. Murray Jr.
Valerie Newman
Takura N. Nyamfukudza
Nicholas M. Ohanesian
Hon. David A. Perkins
Colemon Potts
Daniel D. Quick, President
John W. Reiser III
Hon. Kristen D. Simmons
Danielle Walton
Hon. Erane C. Washington

Commissioners absent:

Delphia T. Simpson

Matthew B. VanDyk

Guests

Thomas Clement

State Bar staff present on Zoom:

Peter Cunningham, Executive Director
Drew Baker, General Counsel
Margaret Bossenbery, Executive Coordinator
Alecia Chandler, Professional Responsibility Programs Director
Gregory Conyers, Director of Diversity
Katherine Gardner, Assistant Executive Director
Tatiana Goodkin, Chief Financial Officer
Molly Ranns, Director, Lawyers & Judges Assistance Program
Kari Thrush, Assistant Executive Director
Nathan Triplett, Director, Governmental Relations

Consent Agenda

The Board received the minutes from the April 19, 2024 Board of Commissioners meeting.
The Board received the minutes from the April 4, 2024 Executive Committee meeting.
The Board received the recent activities of the president.
The Board received the recent activities of the executive director.
The Board received the FY 2023 draft financial reports through April 2024
The Board received the 2023 Report of the State Bar of Michigan Retiree Healthcare Trust.
The Board received the recommendation for the Liberty Bell Award

Mr. Quick asked if any items needed to be removed from the consent agenda. There were none. A motion was offered to approve the consent agenda. The motion was seconded and approved.

President and Executive Director's Report: Dan Quick, President and Peter Cunningham, Executive Director.

Mr. Cunningham gave the Board updates of the Michigan Supreme Court (MSC) Commissions including the Justice for All (JFA) and MSC Diversity Equity and Inclusion (DEI). He asked Ms. Ranns to provide the update of the Commission on Well-Being in the Law (WBIL).

Mr. Cunningham informed the Board that several months ago the LGBTQ+ Law section voiced their concerns about the gender identification options on the Bar application. He reported that he has met with the section leaders about their concern that the Bar's current gender choices are not inclusive. Mr. Cunningham informed the section leaders they should work with the Diversity and Inclusion Advisory Committee (DIAC) on approving a recommendation to change the gender choices to include "male," "female," "non-binary," and another category that would let individuals write in their own gender identification. He stated that SBM staff are working on implementing those recommendations.

Artificial Intelligence Work Group Update

Mr. McGill reported that the AI workgroup continues to meet and will begin working on developing a report including recommendations and a report surrounding many topics affected by AI. He hopes to have the report including recommendations ready to present to the board later this year.

Mr. Quick stated that he testified before the Michigan House Committee in support of the Judicial Protection Act, which is modeled after the Federal Act. It has broad bi partisan support and shows a way in which the bar and the bench worked together on legislation.

Mr. Quick mentioned other substantive programs, including the AI work group and rural justice initiative, that the board began working on earlier this year. These are initiatives that are examples of issues that are complex and significant, and ones that the Board should continue to work on because they impact the legal profession. It is noteworthy that these projects were taken on this year. He congratulated and thanked everyone for their willingness to work and participated in these efforts going forward. .

He started that he, along with Mr. Burrell, Mr. Conyers, and Mr. Cunningham, will meet with law school deans next month to discuss the pipeline programs from elementary programs on up. This is a substantial and worthwhile effort on our part and for our citizens and the justice system.

Mr. Quick informed the Board that he is visiting with UP members in August. He stated that it has been several years since a SBM President has visited the UP.

2024 SBM Officer Election Update

Mr. Quick informed the Board that these commissioners have submitted their materials to run for Secretary of the 2024-2025 Board of Commissioners: David Anderson, Suzanne Larsen, James Low, Gerard Mantese and Gerry Mason. He said that the election of officers will take place at the July 26 BOC meeting.

2024 SBM Election Update

Ms. Bossenbery shared that the numbers of members voting this year are less than last year's numbers. She encouraged the board to remind members in their firms or their friends to cast their ballot.

Open Discussions: Challenges & Opportunities for the Profession and Justice System Comprehensive Communications Plan

Ms. Raymer presented a summary of the Comprehensive Communications Plan to the Board. She stated that she worked with a consultant, Karen Korr, a respected national expert in Bar communications. The plan is a roadmap for SBM communications moving forward and included objectives, key messages, content strategy, and an implementation plan. The top two recommendations were to redesign the website and to use the Michigan Bar Journal to better support SBM communications. Ms. Raymer also responded to questions.

Strategic Planning Committee Report

Mr. Clement, Chair of the Strategic Planning Committee, provided the Board with a status report on the work of the subcommittees of the Strategic Planning Committee including the Leadership Academy, Program Review, Key Performance Indicators, and LRS.

2024 – 2025 Committee Resolution

Mr. Clement presented the 2024-2025 Committee Resolution to the Board and outlined the changes from last year.

A motion was offered and supported to approve the 2024-2025 Committee resolution. The motion passed.

Representative Assembly (RA) Report: Yolanda M. Bennett, Chairperson

Ms. Bennett stated that at the invitation of Judge Melissa Pope, members of the BOC and RA leadership will meet with leaders of the Nottawaseppi Huron Band of the Potawatomi on June 21 in Battle Creek. They will also attend, along with other Board and RA members, a visit to the Tribal Court and attend the 2024 Annual Pow Wow and Grand Entry on June 22.

Ms. Bennett said Judge Pope will swear in Mr. Reiser as the new RA Chair in September and tribal members will make a presentation to the RA.

Ms. Bennett reported that the RA is looking for a member to submit their name for the Clerk position. She stated that July 25 is the deadline to submit applications.

Ms. Bryant asked Ms. Bennett about what the procedure is to recommend a member for the RA. Ms. Bennett replied to contact SBM staff member, Carrie Sharlow, or the chair of the RA nominating committee, Philip Strom. There is also information on the website.

Young Lawyers Section (YLS) Report: Tanya N. Cripps-Serra, Chairperson

Ms. Cripps-Serra gave the Board an update on the activities and programs of the Young Lawyers Section.

COMMISSIONER COMMITTEES

Public Policy: Joseph P. McGill, Chairperson

Mr. McGill provided the report for the Public Policy committee.

Court Rules

Proposed Amendment of Rule 7.306 of the Michigan Court Rules (ADM File No. 2024-05)

The proposed amendment of MCR 7.306 would establish a procedure for two new original actions in the Supreme Court related to presidential elections in conformity with MCL 168.46 (as amended by 2023 PA 269) and MCL 168.845a (as adopted by 2023 PA 255).

A motion was offered and seconded to support this amendment. The motion passed.

Proposed Amendment of Rule 8.126 of the Michigan Court Rules (ADM File No. 2022-10) –

The proposed alternative amendments of MCR 8.126 would clarify and streamline the process for pro hac vice admission to practice in Michigan courts.

A motion was offered and seconded to support Alternative B but recommend that “Permission for a foreign attorney to appear and practice is within the discretion of the tribunal” be retained in MCR 8.126(B)(1) and urge the Court to consider the concerns raised by the Alternative Dispute Resolution Section. The motion passed.

Legislation

HB 4427 (Young) Civil rights: public records; Corrections: prisoners. Civil rights: public records; limited access to public records; provide for incarcerated individuals. Amends secs. 1, 2, 3 & 5 of 1976 PA 442 (MCL 15.231 et seq.).

A motion was offered and supported that this legislation is Keller permissible. The motion passed.
A motion was offered and supported to support the legislation.

HB 5689 (O’Neal) Courts: juries. Courts: juries; local jury boards; eliminate and create a centralized jury process. Amends secs. 857, 1301a, 1304a, 1307a, 1326, 1332, 1334, 1343, 1344, 1345, 1346, 1371 & 1372 of 1961 PA 236 (MCL 600.857 et seq.); adds secs. 1306 & 1307 & repeals secs. 1301, 1301b, 1302, 1303, 1303a, 1304, 1305, 1308, 1309, 1310, 1311, 1312, 1313, 1314, 1315, 1316, 1317, 1318, 1319, 1320, 1321, 1322, 1323, 1324, 1327, 1328, 1330, 1331, 1338, 1339, 1341, 1342, 1353,

1375 & 1376 of 1961 PA 236 (MCL 600.1301 et seq.) & repeals 1929 PA 288 (MCL 730.251 - 730.271) & repeals 1951 PA 179 (MCL 730.401 - 730.419).

A motion was offered and supported that this legislation is Keller permissible. The morion passed
A motion was offered and supported to support the legislation.

HB 5690 (Hope) Courts: juries. Courts: juries; reference in the uniform condemnation procedures act; amend to reflect repeal. Amends sec. 12 of 1980 PA 87 (MCL 213.62).

A motion was offered and supported that this legislation is Keller permissible. The morion passed
A motion was offered and supported to support the legislation.

HB 5691 (Tsernoglou) Courts: juries; Crimes: other. Courts: juries; prospective jurors with certain criminal records and protected statuses; amend eligibility for service and peremptory challenges. Amends sec. 1307a of 1961 PA 236 (MCL 600.1307a) & adds secs. 1307b & 1356.

A motion was offered and supported that this legislation is Keller permissible. The morion passed
A motion was offered and supported to support HB 5691, Section 1356 (1)-(5), (7), and (8).

The motion was adopted by roll-call vote. Commissioners voting in support of the position: Andreson, Bennett, Bryant, Burrell, Christenson, Cripps-Serra, Detzler, Easterly, Evans, Gant, Hamameh, Howlett, Larsen, Lerner, Low, Mansoor, Mantese, Mason, McGill, Murray, Newman, Nyamfukudza, Ohanesian, Perkins, Potts, Reiser, Simmons, Walton, Washington. Commissioners voting in opposition of the position: Quick.)

No position was taken on Section 1356 (6).

HB 5692 (Wilson) Appropriations: supplemental; Courts: other. Appropriations: supplemental; funding for jury selection program; provide for. Creates appropriation act.

A motion was offered and supported that this legislation is Keller permissible. The morion passed
A motion was offered and supported to support the legislation.

HB 5693 (Young) Courts: juries. Courts: juries; reference in the probate code; amend to reflect repeal. Amends sec. 17, ch. XIA of 1939 PA 288 (MCL 712A.17).

A motion was offered and supported that this legislation is Keller permissible. The morion passed
A motion was offered and supported to support the legislation.

HB 5724 (Breen) Courts: judges; Civil rights: public records. Courts: judges; personal information and physical safety protections for judges, their families, and household members; enhance. Creates new act.

A motion was offered and supported that this legislation is Keller permissible. The morion passed
A motion was offered and supported to support the legislation.

The motion was adopted by roll-call vote. Commissioners voting in support of the position: Anderson, Bennett, Bryant, Burrell, Clay, Detzler, Evans, Hamameh, Howlett, Larsen, Lerner, Low, Mantese, Mason, McGill, Murray, Newman, Nyamfukudza, Ohanesian, Perkins, Quick, Reiser, Simmons, Walton, Washington. Commissioners abstaining: Christenson, Gant.

SB 723 (Santana) Criminal procedure: mental capacity; Criminal procedure: trial. Criminal procedure: mental capacity; evaluation of competency to waive Miranda rights; require. Amends 1974 PA 258 (MCL 330.1001 - 330.2106) by adding secs. 1080, 1081, 1082 & 1083.

A motion was offered and supported that this legislation is Keller permissible. The morion passed
A motion was offered and supported to support the legislation.

The motion was supported with the following amendments:

- The statute should track the procedure in MCL 768.20a(3);
- There should be some penalty when a defendant declines to participate in the examination consistent with MCL 768.20a(4); and
- The presumption of competency should be removed.

SB 813 (Cherry) Criminal procedure: evidence; Children: protection; Criminal procedure: pretrial procedure; Criminal procedure: preliminary examination. Criminal procedure: evidence; consideration of videorecorded statements in certain proceedings; allow. Amends sec. 2163a of 1961 PA 236 (MCL 600.2163a).

A motion was offered and supported that this legislation is Keller permissible. The morion passed
A motion was offered and supported to oppose the legislation.

The motion was adopted by roll-call vote. Commissioners voting in support of the position: Andreson, Bennett, Bryant, Burrell, Christenson, Clay, Cripps-Serra, Detzler, Easterly, Evans, Gant, Hamameh, Howlett, Larsen, Lerner, Low, Mansoor, Mantese, Mason, McGill, Murray, Newman, Nyamfukudza, Ohanesian, Perkins, Potts, Quick, Reiser, Simmons, Washington. Commissioners voting in opposition of the position: Walton.

SB 871 (Chang) Courts: judges; Civil rights: public records. Courts: judges; personal information and physical safety protections for judges, their families, and household members; enhance. Creates new act.

A motion was offered and supported that this legislation is Keller permissible. The morion passed
A motion was offered and supported to support the legislation.

The motion was adopted by roll-call vote. Commissioners voting in support of the position: Anderson, Bennett, Bryant, Burrell, Clay, Detzler, Evans, Hamameh, Howlett, Larsen, Lerner, Low, Mantese, Mason, McGill, Murray, Newman, Nyamfukudza, Ohanesian, Perkins, Quick, Reiser, Simmons, Walton, Washington. Commissioners abstaining: Christenson, Gant.

Audit: Thomas H. Howlett, Chairperson
No report was given.

Finance: Thomas H. Howlett, Chairperson
Financial Report

Mr. Howlett reported that as of April 30, 2024, the SBM Administrative Fund total net position was \$14.7 million, an increase of \$2 million from the beginning of this fiscal year. The Administrative Fund net position *excluding* assets restricted for the retiree healthcare trust totaled \$11.3 million, an increase of \$1.7 million from the beginning of this fiscal year.

He said that excluding the retiree healthcare trust impact, SBM operating result through April 30, 2024 was favorable to year-to-date budget by \$781k. Operating revenues were higher than budget by \$87k or 1.1%, and interest income was higher than budget by \$177k or 58.5%. Salaries and benefits expenses were favorable to budget by \$76k or 1.6%, and non-labor operating expenses were favorable to budget by \$457k or 19.4%, some due to timing of expenses.

He stated that the Client Protection Fund's net position totaled \$2.9 million, an increase of \$415k from the beginning of the year and that attorneys in good standing totaled 46,731, a net decrease of 93 attorneys for this fiscal year.

Mr. Howlett invited all board members to participate in the Finance Committees meeting on July 27 via zoom. It will be a chance to hear from management staff about their proposed budget. He said that invitation with the zoom link will be sent to each board member.

FY2025 Preliminary Budget Report

Mr. Cunningham reviewed the FY2025 Preliminary Budget Summary with the board. He informed everyone that the budget process began in March with SBM staff reviewing and forecasting the current fiscal year budget and the FY 2025 budget. The preliminary budget presented at this meeting is to give Board members the opportunity to ask questions and raise concerns before the Finance Committee does a comprehensive review of the budget on July 27, which all Commissioners are invited to attend. The Finance Committee will present the recommended budget to the full Board for their consideration at the July Board meeting. Mr. Cunningham responded to questions about the preliminary budget.

Professional Standards: Erika L. Bryant, Chairperson
No report was given.

Communications and Member Services (CAMS): Lisa J. Hamameh, Chairperson
No report was given.

FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

Comments or questions from Commissioners
None

Comments or questions from the public
None.

Adjournment
The meeting was adjourned at 11:45 a.m.

State Bar of Michigan
Executive Committee Virtual Meeting
Wednesday, May 22, 2024
4:00 p.m.

President Quick called the meeting to order at 4:01 p.m.

Members Present: President Daniel D. Quick, President Elect Joseph P. McGill, Vice President Lisa Hamameh, Secretary Erika L. Bryant, Treasurer Thomas H. Howlett, Representative Assembly Chair Yolanda Bennett, Representative Assembly Vice Chair John Reiser III, and Commissioners David Anderson, Aaron V. Burrell, and Robert Easterly

State Bar Staff Present: Peter Cunningham, Executive Director; Drew Baker, General Counsel; Margaret Bossenbery, Executive Coordinator; Assistant Executive Directors, Nancy Brown and Kathryn Gardner.

Minutes:

A motion was offered to approve the April 4, 2024 meeting minutes. The motion was seconded and approved.

President and Executive Director's Report

Mr. Cunningham gave the committee an update on the Great Lakes Legal Conference (GLLC) meeting. He stated that the room block for this event is sold out, that there are 146 paid attendees registered which is on par with last year's attendance. He stated that the board members are encouraged to go to the leadership track offered and participate in the plenary sessions.

Mr. Quick asked that staff give board members information about what they ideally want them to attend.

Budget Review Process

Mr. Cunningham stated that he and Mr. Howlett have been working with the Finance Committee and SBM staff on the FY2025 preliminary budget. The Finance Committee is working with staff on ways to better align the budget to the strategic goals of the SBM. There will be a preliminary budget summary presented to the full Board at the June meeting, followed by a full review of the budget by the Finance Committee on June 27. Mr. Howlett said that all Board members will be invited to attend the June 27 meeting where the Finance Committee will vote on a final budget to recommend to the Board at the July Board meeting.

Gender Identification

Mr. Cunningham gave the committee an update on a concern, initially raised by the LGBTQ+ Law section, about how SBM asks attorneys about their gender identity. Since the last meeting, he has met with the section leaders about their concerns that the Bar's current gender choices are not inclusive. Mr. Cunningham informed the section leaders they should work with the Diversity and Inclusion Advisory Committee (DIAC) on approving a recommendation to change the gender choices to include "male," "female," "non-binary," and a category that would allow individuals to write their own gender identification. Once DIAC has made a recommendation, staff will inform the Board and if there are no objections, staff will implement the recommendations.

Presidential Meetings

Mr. Quick reported that he has been traveling to meet with various groups in his role as President.

Representative Assembly (RA) Report

Ms. Bennett asked Mr. Reiser to inform the committee of the upcoming meeting with the Potawatomi Tribal Court on Friday and Saturday, June 21 and 22. Mr. Reiser stated that officers of the BOC and RA will meet with representatives from the Potawatomi Tribal Court on Friday, June 21 for a dinner/reception. On Saturday, June 22 all member of the BOC and RA are invited to meet with Judge Melissa Pope for a tour the Nottawaseppi Huron Band of the Potawatomi Tribal Court and followed by attending the tribe's 2024 annual Pow Wow. Mr. Reiser stated that at the September RA meeting the tribal members will get a give a presentation on Michigan's tribal courts. An email invitation will be sent out to Board and RA members in the next few days.

June 14, 2024 Board of Commissioners meeting Agenda

A motion was made to approve the June 14, 2024 BOC agenda. The motion was seconded and approved.

Other

Ms. Bossenbery informed the committee that the election ballots are being sent out to active members tomorrow, May 23 and that the election deadline is June 17th.

Ms. Bryant informed the committee that Mr. Burrell is receiving the Straker Bar Trailblazers Award on June 13, 2024. Members offered their congratulations.

Adjournment

The meeting was adjourned at 4:40 p.m.

President Daniel D. Quick
President's Activities
June 15 through July 26, 2024

Date	Event	Location
June 27	Wolverine Bar Association Presidents Dinner	Detroit
July 10	Meeting with DIAC leadership, Peter Cunningham, and Michigan law schools on judicial clerkship opportunities	Virtual
July 11	Executive Committee meeting	Virtual
July 26	Board of Commissioners meeting	Lansing

Executive Director Peter Cunningham
Executive Director Activities
June 17 through July 26, 2024

Date	Event
June 17	Diversity, Equity, and Inclusion (DEI) Commission Workgroup meeting
June 20	Meeting with Chief Justice Clement
June 20	DEI Executive Team meeting
June 21	Meeting with Tom Howlett
June 27	Finance Committee Budget Review meeting With SBM Management staff
June 28	Commission on the Well-Being in the Law (CWBIL) Commission meeting
June 28	DEI Commission meeting
July 1	Meeting with Joe McGill
July 8	DEI Commission Workgroup meeting
July 10	National Association of Bar Executives Evidence Based Decision Making Planning meeting
July 10	Meeting with DIAC leadership, Dan Quick, and Michigan law schools on judicial clerkship opportunities
July 11	Justice for All (JFA) Executive Team meeting
July 11	Executive Committee meeting
July 23	CWBIL Commission meeting
July 24	Public Policy Committee meeting
July 25	State Planning Board meeting
July 25	JFA Executive Team meeting
July 26	Board of Commissioners meeting

State Bar of Michigan Financial Results Summary

For the Eight Months Ended May 31, 2024
Fiscal Year 2024

Administrative Fund - Summary of Results as of May 31, 2024

Operating Revenue	\$8,764,475
Operating Expense	<u>(7,756,015)</u>
Operating Income (Loss)	1,008,460
Non-Operating Income (Loss)	<u>1,032,471</u>
Change in Net Position	2,040,931
Net Position, October 1, 2023	<u>\$12,751,125</u>
Net Position, May 31, 2024	<u>\$14,792,056</u>

As of May 31, 2024, Net Position *excluding* net assets restricted for retiree healthcare was \$11,288,802, an increase of \$1,628,265 since the beginning of the year and favorable to budget by \$861,811.

YTD Operating Revenue variance – \$107,653, favorable to budget (1.2%):

License fee and related revenue was lower than budget by \$96,600 (1.3%); other operating revenue was higher than budget by \$204,253 (14.6%) primarily due to higher C&F, IAP revenue, and Administration.

YTD Operating Expense variance - \$564,535, favorable to budget (6.8%):

Salaries and Employee Benefits/ Payroll Taxes – \$79,817, favorable (1.4%)

- Under budget due to lower benefits and PR taxes (\$18,846) and lower salary expenses (\$60,972).

Non-Labor Operating Expenses - \$484,717, favorable (18.4%)

- Legal - \$40,334, favorable (27.8%) – Under budget with the largest variance in C&F, IAP, and HR.
- Public and Bar Services - \$178,742, favorable (25.6%) – Under budget with the largest variances in IT, Diversity, and Outreach, some due to timing.

- Operations and Policy - \$265,642, favorable (14.8%) – Under budget with the largest variances in Facilities, Bar Journal, Print & Design, Finance, Administration, Executive Office, BOC, Research and depreciation, some due to timing.

YTD Non-Operating Revenue Budget Variance - \$687,138 favorable to budget 199%:

- Interest income is favorable to budget by \$206,029 (59.7%).
- Retiree Health Care Trust net investment gain of \$497,515 (this amount is *not* budgeted).
- Loss on disposal \$16,406.

Cash and Investment Balance

As of May 31, 2024, the cash and investment balance in the State Bar Admin Fund net of *due to Sections, ADS, Client Protection Fund, and Retiree Health Care Trust* was \$12,243,763, an increase of \$2,791,381 from the beginning of the year primarily due to collection of license fees.

SBM Entities Retiree Health Care Trust

As of May 31, 2024, the SBM retiree health care trust investments were \$4,525,791, an increase of \$412,666 since the beginning of the year. The change is due to investment gains of \$505,626, net of advisor and record keeping fees of \$7,692, and trust distributions for retiree healthcare premiums of \$84,849.

Capital Budget

Year-to-date capital expenditures totaled \$186,457, or 72% of the FY 2024 capital expenditures budget of \$259,680.

Client Protection Fund

The Net Position of the Client Protection Fund as of May 31, 2024, totaled \$2,992,566, an increase of \$470,572 from the beginning of the year. Claims expenses totaled \$85,734, including \$12,964 of authorized but not paid claims awaiting signed subrogation agreements.

SBM Membership

As of May 31, 2024, the active, inactive, and emeritus membership in good standing totaled 46,828 attorneys, an increase of 4 attorneys since the beginning of the year; and the number of paying attorneys decreased by 619. A total of 631 new attorneys have joined SBM since the beginning of the year.

FY 2024 Forecast

Excluding income of the SBM Entities Retiree Healthcare Trust, which is not budgeted or forecasted, SBM projects FY 2024 increase in net position of \$1,265,510, with a favorable year-end budget variance of \$372,290.

- License fees and related revenues are expected to be lower than budget by \$150,000 due to a decrease in paying members.
- Other operating revenues are expected to be higher than budget by \$157,734, primarily due to higher revenues in IAP and advertising and partner program revenues.
- Salaries and benefits are expected to be higher than the budget by \$46,615 due to higher insurance costs.
- Non-labor operating expenses are expected to be lower than budget by \$187,939 due to lower travel and meeting expenses for Inaugural and Awards Luncheon and 50 Year Event, Outreach, EO/BOC and RA, lower operating expenses in C&F, IT, Facilities, and Communications, offset by higher expenses in CPF, HR, Diversity, and Justice Initiatives.
- Interest income is projected to be higher than budget by \$240,000 due to higher-than-expected interest rates.

Capital expenditures for FY 2024 are expected to be \$280,463, which include \$20,783 in carry-over expenses from FY 2023.

**STATE BAR OF MICHIGAN
ADMINISTRATIVE FUND**

Unaudited and For Internal Use Only

**FINANCIAL REPORTS
May 31, 2024**

FY 2024

Note: License fee revenue is recognized
and budgeted as earned each month
throughout the year.

State Bar of Michigan
Parent Company : State Bar of Michigan
SBM Statement of Net Position
May 31, 2024

Financial Row	Current Period (As of May 2024)	Prior Month (As of Apr 2024)	Variance	Variance %	Beginning of FY (As of Sep 2023)
ASSETS AND DEFERRED OUTFLOWS OF RESOURCES					
Assets					
Cash	673,474	1,468,539	(795,065)	(54.14%)	\$775,835
Investments	15,090,155	15,189,533	(99,378)	(0.65%)	11,776,775.8
Due from (to) CPF	(451)	13,872	(14,322)	(103.25%)	13,206.2
Due from (to) Sections	(3,522,341)	(3,576,752)	54,411	(1.52%)	(3,113,434.4)
Due from (to) ADS	2,926	49,807	(46,881)	(94.13%)	-
Net Administrative Fund Cash and Investment Balance	12,243,763	13,144,998	(901,235)	(6.86%)	9,452,382.3
Accounts Receivable	92,572	79,241	13,330	16.82%	48,377.9
Prepaid Expenses	351,579	318,806	32,773	10.28%	490,364.1
Capital Assets, Net	3,249,673	3,260,494	(10,821)	(0.33%)	3,228,115.0
SBM Retiree Health Care Trust	4,525,791	4,405,970	119,821	2.72%	4,113,125.3
Total Assets	20,463,378	21,209,510	(746,132)	(3.52%)	17,332,364.5
Deferred Outflows of Resources					
Deferred Outflows of Resources Related to Pensions	24,225	24,225	-	-	24,225.5
Deferred Outflows of Resources Related to OPEB	1,081,363	1,081,363	-	-	1,081,362.8
Total Deferred Outflows of Resources	1,105,588	1,105,588	-	-	1,105,588.2
TOTAL ASSETS AND DEFERRED OUTFLOWS OF RESOURCES	\$ 21,568,966.6	\$ 22,315,098.3	\$ (746,131.7)	(3.34%)	\$ 18,437,952.7
LIABILITIES, DERERRED INFLOWS OF RESOURCES AND NET POSITION					
Liabilities					
Accounts Payable	5,210	4,521	689	15.25%	463,715.2
Accrued Expenses	744,081	728,907	15,175	2.08%	697,379.2
Deferred Revenue	3,461,742	4,303,222	(841,480)	(19.55%)	2,052,690.5
GASB 96 Subscription Liability	92,834	92,834	-	-	-
Net Pension Liability	365,770	365,770	-	-	365,770.0
Net OPEB Liability	1,157,170	1,157,170	-	-	1,157,170.0
Total Liabilities	5,826,807	6,652,423	(825,616)	(12.41%)	4,736,724.8
Deferred Inflows of Resources					
Deferred Inflows of Resources Related to Pensions	3,373	3,373	-	-	3,373.0
Deferred Inflows of Resources Related to OPEB	946,730	946,730	-	-	946,730.0
Total Deferred Inflows of Resources	950,103	950,103	-	-	950,103.0
Total Liabilities and Deferred Inflows	6,776,910	7,602,526	(825,616)	(10.86%)	5,686,827.8
Net Assets					
Invested in Capital Assets, Net of Related Debt	3,249,673	3,260,494	(10,821)	(0.33%)	3,228,115.0
Restricted for Retiree Health Care Trust	3,503,254	3,383,433	119,821	3.54%	3,090,588.0
Unrestricted	8,039,129	8,068,645	(29,516)	(0.37%)	6,432,421.9
Total Net Position	14,792,056	14,712,572	79,484	0.54%	12,751,124.9
TOTAL LIABILITIES, DERERRED INFLOWS OF RESOURCES AND NET POSITION	\$ 21,568,966.6	\$ 22,315,098.3	\$ (746,131.7)	(3.34%)	\$ 18,437,952.7
Net Position Excluding Impacts of Retiree Health Care Trust	11,288,802	11,329,139	(40,337)	(0.36%)	\$9,660,537

State Bar of Michigan
Parent Company : State Bar of Michigan
Summary - Statement of Revenue, Expense and Net Assets
May 31, 2024

Financial Row	Actual YTD (Oct 2023 - May 2024)	Budget YTD (Oct 2023 - May 2024)	Variance	Percentage	Prior YTD Actual (Oct 2022 - May 2023)	Actual Variance YTD	Actual Variance YTD %
Operating Revenue							
License Fees, Dues and Related	\$7,165,975	\$7,262,575	(\$96,600)	(1.3%)	\$7,323,301	(\$157,326)	(2.1%)
All other Op Revenue	1,598,500	1,394,247	204,253	14.6%	1,363,154	235,346	17.3%
Total Operating Revenue	8,764,475	8,656,822	107,653	1.2%	8,686,455	78,020	0.9%
Total Operating Expenses							
Labor Operating Expenses							
Salaries	4,144,404	4,205,376	(60,972)	(1.4%)	3,722,869	421,535	11.3%
Benefits and Payroll Taxes	1,457,229	1,476,075	(18,846)	(1.3%)	1,309,429	147,801	11.3%
Total Labor Operating Expenses	5,601,634	5,681,451	(79,817)	(1.4%)	5,032,298	569,336	11.3%
Non Labor Operating Expenses							
Legal	104,871	145,205	(40,334)	(27.8%)	77,972	26,899	34.5%
Operations and Policy	1,529,452	1,795,093	(265,642)	(14.8%)	1,530,645	(1,194)	(0.1%)
Public and Bar Services	520,059	698,801	(178,742)	(25.6%)	494,591	25,468	5.1%
Total - Non Labor Operating Expenses	2,154,382	2,639,099	(484,717)	(18.4%)	2,103,208	51,173	2.4%
Total Operating Expenses	7,756,015	8,320,550	(564,535)	(6.8%)	7,135,506	620,509	8.7%
Operating Income (Loss)	1,008,460	336,272	672,188	199.9%	1,550,949	(542,489)	(35.0%)
Non Operating Revenue (Expenses)							
Investment Income	551,363	345,333	206,029	59.7%	380,714	170,649	44.8%
Investment Income - Ret HC Trust	497,515	-	497,515	-	430,687	66,828	15.5%
Loss on Disposal	(16,406)	-	(16,406)	-	-	(16,406)	-
Net Non Operating Revenue (Expenses)	1,032,471	345,333	687,138	199.0%	811,401	221,070	27.2%
Increase (Decrease) in Net Position	2,040,931	681,606	1,359,326	199.4%	2,362,350	(321,419)	(13.6%)
Net Position Beginning of Year	12,751,125	8,648,879	4,102,246	47.4%	9,813,122	2,938,003	29.9%
Net Position End of Period	14,792,056	9,330,484	5,461,572	58.5%	12,175,472	2,616,584	21.5%
Change in Net Position Excl. Ret HC Trust Investment Income (Loss)	\$1,543,416	\$681,606	\$861,811	126.4%	1,931,663	(388,247)	(20.1%)

State Bar of Michigan
Parent Company : State Bar of Michigan
SBM Statement of Revenues, Expenses and Net Assets
May 31, 2024

Financial Row	Actual (Oct 2023 - May 2024)	Budget YTD (Oct 2023 - May 2024)	Budget Variance	Budget Variance %	Last YTD Actuals (Oct 2022 - May 2023)	Actuals Variance	Actuals Variance %
Revenues							
License Fees and Related	\$7,165,975	\$7,262,575	(\$96,600)	(1.3%)	\$7,323,301	(\$157,326)	(2.1%)
Other Operating Revenues							
Operations and Policy							
Administration	497,094	446,164	50,930	11.4%	429,376	67,719	15.8%
Bar Journal	141,253	129,167	12,086	9.4%	141,542	(289)	(0.2%)
Digital	35,500	26,672	8,828	33.1%	36,331	(831)	(2.3%)
E Journal	27,322	24,664	2,658	10.8%	25,450	1,872	7.4%
Print and Design	23,976	26,336	(2,360)	(9.0%)	31,450	(7,473)	(23.8%)
Total - Operations and Policy	725,145	653,003	72,143	11.0%	664,148	60,997	9.2%
Public and Bar Services							
50 Year Event	7,660	5,600	2,060	36.8%	5,960	1,700	28.5%
Diversity	980	-	980	-	-	980	-
Great Lakes Legal Conference	39,760	37,000	2,760	7.5%	34,530	5,230	15.1%
Lawyer Referral Services	82,137	106,664	(24,527)	(23.0%)	132,184	(50,046)	(37.9%)
Lawyer Services	153,971	144,800	9,171	6.3%	146,601	7,370	5.0%
Lawyers & Judges Assistance Program	38,931	40,000	(1,069)	(2.7%)	36,217	2,714	7.5%
Practice Management Resource Center	1,771	2,000	(229)	(11.4%)	2,505	(734)	(29.3%)
Total - Public and Bar Services	325,210	336,064	(10,854)	(3.2%)	357,996	(32,786)	(9.2%)
Legal							
Character & Fitness	353,485	313,517	39,968	12.7%	338,735	14,750	4.4%
Ethics	3,260	1,664	1,596	95.9%	2,275	985	43.3%
IAP	191,400	90,000	101,400	112.7%	-	191,400	-
Total - Legal	548,145	405,181	142,964	35.3%	341,010	207,135	60.7%
Total - Other Operating Revenues	1,598,500	1,394,247	204,253	14.6%	1,363,154	235,346	17.3%
Non Operating Revenue							
Investment Income	551,363	345,333	206,029	59.7%	380,714	170,649	44.8%
Gain/loss on FAM	(16,406)	-	(16,406)	-	-	(16,406)	-
Investment Income - Retiree HC Trust	497,515	-	497,515	-	430,687	66,828	15.5%
Total Non Operating Revenue	1,032,471	345,333	687,138	199.0%	811,401	221,070	27.2%
Total Revenues	\$ 9,796,947	\$ 9,002,156	\$ 794,791	8.8%	\$ 9,497,856	\$ 299,090	3.1%

Financial Row	Actual (Oct 2023 - May 2024)		Budget YTD (Oct 2023 - May 2024)		Budget Variance	Budget Variance %	Last YTD Actuals (Oct 2022 - May 2023)		Actuals Variance	Actuals Variance %		
Expenses												
Legal												
Character & Fitness	\$	19,582	\$	38,748	\$	(19,166)	(49.5%)	\$	20,906	\$	(1,323)	(6.3%)
Client Protection Fund		14,477		8,692		5,785	66.6%		7,018		7,459	106.3%
Ethics		2,408		4,635		(2,227)	(48.1%)		2,329		79	3.4%
General Counsel		21,457		26,407		(4,950)	(18.7%)		7,508		13,949	185.8%
IAP		6,043		13,946		(7,903)	(56.7%)		704		5,339	758.6%
UPL		1,976		6,420		(4,443)	(69.2%)		3,936		(1,960)	(49.8%)
Human Resources												
Payroll Taxes		305,751		324,360		(18,609)	(5.7%)		277,125		28,626	10.3%
Benefits		1,151,478		1,151,715		(237)	(0.0%)		1,032,304		119,175	11.5%
Human Resources - Other		38,927		46,357		(7,430)	(16.0%)		35,571		3,356	9.4%
Total Legal		1,562,100		1,621,280		(59,180)	(3.7%)		1,387,401		174,700	12.6%
Public and Bar Services												
50 Year Event		6,607		6,600		7	0.1%		12,280		(5,673)	(46.2%)
Diversity		16,186		26,314		(10,128)	(38.5%)		21,926		(5,739)	(26.2%)
Great Lakes Legal Conference		(3,500)		-		(3,500)	-		13		(3,513)	(27,042.9%)
IT		392,310		518,819		(126,509)	(24.4%)		351,967		40,343	11.5%
Inaugural and Awards Lunch		9,924		9,450		474	5.0%		9,977		(53)	(0.5%)
Lawyer Referral Services		5,447		4,700		747	15.9%		3,954		1,494	37.8%
Lawyer Services		19,538		19,033		505	2.7%		20,562		(1,024)	(5.0%)
Lawyers & Judges Assistance Program		17,583		21,392		(3,809)	(17.8%)		8,337		9,246	110.9%
Outreach		52,742		86,156		(33,414)	(38.8%)		60,717		(7,975)	(13.1%)
Practice Management Resource Center		3,221		6,336		(3,115)	(49.2%)		4,859		(1,638)	(33.7%)
Total Public and Bar Services		520,059		698,801		(178,742)	(25.6%)		494,591		25,468	5.1%
Operations and Policy												
Administration		81,512		93,397		(11,885)	(12.7%)		86,388		(4,876)	(5.6%)
Bar Journal		228,078		286,560		(58,482)	(20.4%)		215,910		12,168	5.6%
Board of Commissioners		28,503		44,900		(16,397)	(36.5%)		35,409		(6,906)	(19.5%)
Digital		71,409		82,997		(11,588)	(14.0%)		81,461		(10,052)	(12.3%)
E Journal		10,322		11,245		(923)	(8.2%)		9,263		1,060	11.4%
Executive Office		18,417		35,897		(17,480)	(48.7%)		10,565		7,852	74.3%
Facilities		249,288		316,997		(67,709)	(21.4%)		258,947		(9,659)	(3.7%)
General Communications		8,220		12,939		(4,719)	(36.5%)		3,684		4,535	123.1%
Governmental Relations		48,697		49,646		(949)	(1.9%)		44,283		4,414	10.0%
Justice Initiatives		136,807		131,353		5,454	4.2%		128,518		8,289	6.4%
Print and Design		28,412		36,978		(8,566)	(23.2%)		28,429		(17)	(0.1%)
Representative Assembly		17,062		22,200		(5,138)	(23.1%)		3,798		13,265	349.3%
Research		1,497		9,264		(7,767)	(83.8%)		7,125		(5,628)	(79.0%)
Finance												
Depreciation		274,280		313,328		(39,048)	(12.5%)		278,094		(3,814)	(1.4%)
Finance		326,948		347,392		(20,444)	(5.9%)		338,771		(11,824)	(3.5%)
Total Operations and Policy		1,529,452		1,795,093		(265,642)	(14.8%)		1,530,645		(1,194)	(0.1%)

Financial Row	Actual (Oct 2023 - May 2024)	Budget YTD (Oct 2023 - May 2024)	Budget Variance	Budget Variance %	Last YTD Actuals (Oct 2022 - May 2023)	Actuals Variance	Actuals Variance %
Salaries							
Legal	1,059,676	968,662	91,014	9.4%	878,175	181,501	20.7%
Operations and Policy	1,516,171	1,731,780	(215,609)	(12.5%)	1,483,157	33,014	2.2%
Public and Bar Services	1,568,557	1,504,934	63,623	4.2%	1,361,537	207,020	15.2%
Total - Salaries	4,144,404	4,205,376	(60,972)	(1.4%)	3,722,869	421,535	11.3%
Total Expenses	\$ 7,756,015	\$ 8,320,550	\$ (564,535)	(6.8%)	\$ 7,135,506	\$ 620,509	8.7%
Increase (Decrease) in Net Assets	\$ 2,040,931	\$ 681,606	\$ 1,359,326	199.4%	\$ 2,362,350	\$ (321,419)	(13.6%)

State Bar of Michigan Administrative Fund
Revenues, Expenses and Net Assets
FY 2024 - Year-End Forecast
Updated June 25, 2024

	FY 2024 Year-End Forecast	FY 2024 Budget	Variance	Percentage	FY 2023 Actual
Operating Revenue					
- License Fees, Dues & Related	10,645,000	10,795,000	(150,000)	(1.4%)	10,830,970
- All Other Op Revenue	1,962,329	1,804,955	157,374	8.7%	1,828,111
Total Operating Revenue	12,607,329	12,599,955	7,374	0.1%	12,659,081
Operating Expenses					
- Labor-related Operating Expenses					
Salaries	6,124,434	6,124,434	-	-	5,789,720
Benefits and Payroll Taxes	2,117,831	2,071,216	46,615	2.3%	1,847,302
Total Labor-related Operating Expenses	8,242,265	8,195,650	46,615	0.6%	7,637,022
- Non-labor Operating Expenses					
Legal	246,459	246,700	(241)	(0.0%)	144,735
Public and Bar Services	1,199,249	1,232,705	(33,456)	(13.6%)	889,777
Operations and Policy	2,395,438	2,549,680	(154,242)	(6.0%)	2,204,188
Total Non-labor Operating Expenses	3,841,146	4,029,085	(187,939)	(4.7%)	3,238,700
Total Operating Expenses	12,083,411	12,224,735	(141,324)	(1.2%)	10,875,722
Operating Income (Loss)	523,917	375,220	148,697	N/A	1,783,359
Non-operating Revenue (Expenses)					
Investment Income	758,000	518,000	240,000	46.3%	579,659
Investment Income - Ret HC Trust*	-	-	-	-	574,984
Loss on Disposal of Capital Assets	(16,406)	-	(16,406)	1,640,600.0%	-
Net Non-operating Revenue (Expenses)	741,594	518,000	223,594	43.2%	1,154,643
Increase (Decrease) in Net Position	1,265,511	893,220	372,291	41.7%	2,938,002

Operating Revenue Forecast:

- License fees and related - Expecting to be under budget for license fees and related revenues due to decrease in paying members.
- All other operating revenue - Expecting to be higher than budget primarily due to higher IAP (\$100k), advertising revenues and carrer center (\$25k) and partner program revenues (\$9k).

Labor Forecast:

- Salaries - Expecting to be at the budget.
- Benefits & PR Taxes - Expecting to be higher than budget due to higher insurance costs.

Non-labor Forecast:

Legal

- Expecting to be close to budget with savings in C&F (\$9.4k) and increased expenses in CPF (\$4.9k) and HR (\$5k).

Public and Bar Services

- Expecting to be under budget primarily in IT (\$12k), Inaugural and Awards Lunch (\$12k), Outreach (\$7k), and 50 Year Event (\$5k), offset by higher expenses in Diversity (\$2k).

Operations and Policy

- Executive Offices & BOC - Expecting to be under budget primarily due to lower forecasted travel expenses (\$13k).
- Expecting to be under budget in RA primarily due to lower meeting and travel expenses (\$10k).
- Expecting to be under budget in Facilities (\$8k), Bar Journal (\$43k), Print & Design (\$5k), offset by higher Justice Initiatives expenses (\$7.4k).
- Finance - Expecting to be under budget primarily due to lower depreciation expense (\$77k).

Non-Operating Income forecast:

- Investment Income - Expecting to be higher than budget due to higher interest rates.
- Retiree Health Care Trust Investment Income was not budgeted nor forecasted.

State Bar of Michigan
Administrative Fund
FY 2024 Capital Expenditures vs Budget
For the Eight Months Ending May 31, 2024

	YTD Actual	YTD Budget	YTD Variance	Notes and Variance Explanations	FY 2024 Forecast	FY 2024 Budget	Forecasted Variance
FACILITIES, FURNITURE & OFFICE EQUIPMENT							
Boardroom upgrade to three Apple-compatible presentation points	12,554	12,554	-		\$ 30,000	\$ 30,000	\$ -
Ethernet Switches (expense delayed from FY 2023)	11,296	-	11,296	Carryover from FY 2023 (\$27,753 remaining as of 09/30/23)	11,296	-	11,296
Additional Cameras for 1st Floor (expense delayed from FY 2023)	9,487	-	9,487	Carryover from FY 2023 (\$10,000 remaining as of 09/30/23)	9,487	-	9,487
TOTAL FACILITIES, FURNITURE & OFFICE EQUIPMENT	\$ 33,337	\$ 12,554	\$ 20,783		\$ 50,783	\$ 30,000	\$ 20,783
INFORMATION TECHNOLOGY							
<u>Application Software Development:</u>							
Receivership /Interim Administrator Program data portal	\$ 25,530	\$ 25,530	\$ -		\$ 31,600	\$ 31,600	\$ -
E-commerce Store	17,535	10,000	7,535		17,535	10,000	7,535
E-commerce Events	49,435	32,460	16,975		49,435	32,460	16,975
E-commerce License Fee Updates	15,950	15,950	-		40,600	40,600	-
e-Services Application to Court e-Filing (mi-File)	-	-	-		-	20,000	(20,000)
Firm Administration and Billing	12,760	11,000	1,760		15,000	11,000	4,000
Website Functionality Enhancements	15,950	12,680	3,270		20,000	12,680	7,320
Character & Fitness Module	9,580	9,580	-		18,970	34,800	(15,830)
Volunteer Application Updates	3,190	3,190	-		19,140	19,140	-
Consumer Portal (LRS)	3,190	3,190	-		17,400	17,400	-
TOTAL INFORMATION TECHNOLOGY	\$ 153,120	\$ 123,580	\$ 29,540		\$ 229,680	\$ 229,680	\$ -
TOTAL CAPITAL EXPENDITURES BUDGET	\$ 186,457	\$ 136,134	\$ 50,323		\$ 280,463	\$ 259,680	\$ 20,783

**STATE BAR OF MICHIGAN
CLIENT PROTECTION FUND**

Unaudited and For Internal Use Only

**FINANCIAL REPORTS
May 31, 2024**

FY 2024

Note: License fee revenue is recognized and budgeted as earned each month throughout the year.

State Bar of Michigan
Parent Company : State Bar of Michigan : Client Protection Fund
CPF Comparative Statement of Net Assets
May 31, 2024

Financial Row	As of May 2024	As of Apr 2024	Variance	Variance %	As of Sep 2023
Assets					
Cash-Checking	\$15,395	\$14,445	\$950	6.6%	\$75,040
Savings	227,169	266,466	(39,296)	(14.7%)	72,303
Investments	3,314,005	3,298,562	15,443	0.5%	2,546,363
Due From SBM	451	(13,872)	14,322	(103.2%)	(13,206)
Total Assets	\$3,557,020	\$3,565,600	(\$8,581)	(0.2%)	\$2,680,499
Liabilities and Fund Balance					
Liabilities					
Interpleader Funds	\$342,742	\$342,742	-	-	-
Claims Payable	12,964	25,269	(12,305)	(48.7%)	43,268
Deferred Revenue	208,748	260,512	(51,764)	(19.9%)	115,238
Total Liabilities	\$564,454	\$628,523	(\$64,069)	(10.2%)	\$158,505
Fund Balance Beginning of Year	2,521,993.64	2,521,993.64	-	-	2,121,791
Net Income (Expense) Year to Date	470,572.23	415,083.91	55,488.32	13.4%	400,202
Total Fund Balance	\$2,992,566	\$2,937,078	\$55,488	1.9%	\$2,521,994
Total Liabilities and Fund Balance	\$3,557,020	\$3,565,600	(\$8,581)	(0.2%)	\$2,680,499

State Bar of Michigan
Parent Company : State Bar of Michigan : Client Protection Fund
CPF Income Statement
May 31, 2024

Financial Row	CY (Oct 2023 - May 2024)	PY (Oct 2022 - May 2023)	Variance
Income			
42965 - Claims Recovery	\$66,541	\$16,572	\$49,969
42970 - Contributions Received	90,301	20,341	69,960
40050 - License Fee	422,032	431,000	(8,968)
40055 - Pro Hac Vice Fees	10,695	7,785	2,910
Total Income	\$589,569	\$475,698	\$113,871
Expenses			
65285 - Bank Service Fees	\$295	\$280	\$15
71005 - Claims Payments	85,734	209,751	(124,017)
69060 - SBM Administrative/Service Fees	134,000	120,000	14,000
Total Expenses	\$220,029	\$330,031	(\$110,002)
Investment Income			
49015 - Gain or Loss on Investment JPM Brokerage	\$95,820	\$61,078	\$34,742
49010 - Interest & Dividends	5,212	3,675	1,537
Total Investment Income	\$101,032	\$64,753	\$36,279
Increase or Decrease in Net Posisiton	\$470,572	\$210,420	\$260,152
Net Position, Beginning of Year	\$2,521,994	\$2,121,791	\$400,202
Net Position, End of Period	\$2,992,566	\$2,332,211	\$660,355

Summary of Cash and Investment Balances by Financial Institution

5/31/2024

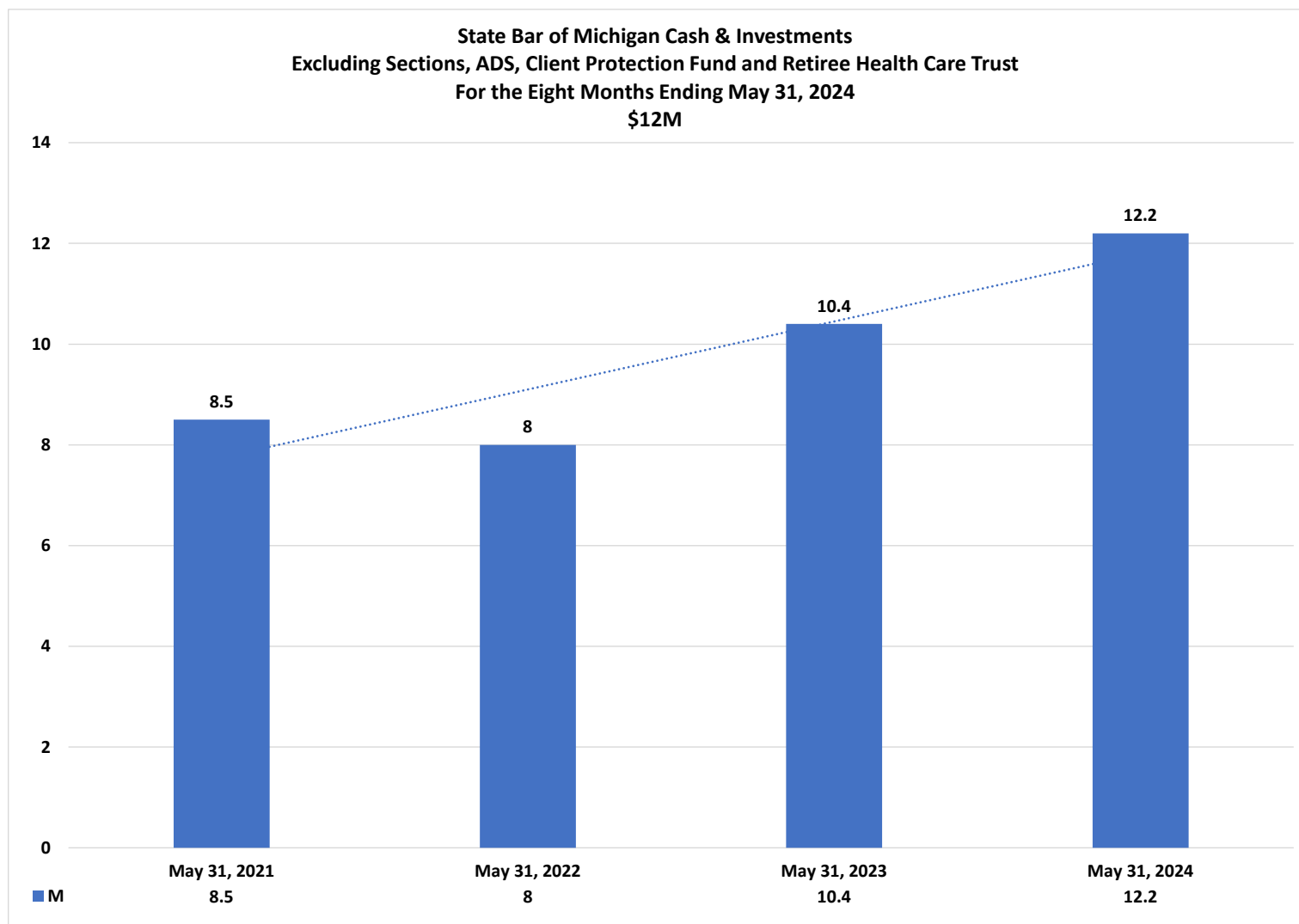
Assets	Bank Rating	Financial Institution Summary		Interest Rates	Fund Summary	
\$3.5 Trillion	4 stars	SBM Chase Checking	\$128,774.54	0.02%	Client Protection Fund	\$ 3,556,569
		SBM Chase Credit Card	\$12,640.39		State Bar Admin Fund (including Sections)	\$ 15,763,628
		SBM Chase E Checking	\$1,735.00		Attorney Discipline System	\$ 5,546,553
		SBM Chase Payroll	(\$30,057.29)		SBM Retiree Health Care Trust	\$ 4,525,791
		SBM Chase Savings	\$ 500.21		ADB Retiree Health Care Trust	\$ 1,503,820
		ADS Chase Checking	\$24,145.47	0.02%	AGC Retiree Health Care Trust	\$ 4,585,487
		ADS Chase Petty Cash	\$ 2,601.00		Total	\$ 35,481,848
		CPF Chase Checking	\$15,395.08		State Bar Admin Fund Summary	
		CPF Chase Savings	\$ 461.54		Cash and Investments	\$ 15,763,628
		** Chase Total	\$ 156,195.94		Less:	
\$7.8 Billion	4 stars	SBM Horizon Bank Money Market	\$ 9.06		Due (to)/from Sections	\$ (3,522,341)
		Horizon Bank Total w/CD	\$ 2,007,228.72		Due (to)/from ADS	\$ 2,926
\$214 Billion	5 stars	SBM Fifth Third Commercial Now	\$ 2,257.26	0.30%	Due (to)/from CPF	\$ (451)
		Fifth Third Total	\$ 2,257.26		Due to Sections, CPF and ADS	\$ (3,519,866)
\$7.8 Billion	5 stars	MSUCU Savings	\$ 56.09		Net Administrative Fund	\$ 12,243,762
		MSUCU Checking	\$ 13,025.72		SBM Average Weighted Yield:	4.86%
\$1 Billion	5 stars	MSU Credit Union Total	\$ 13,081.81		ADS Average Weighted Yield:	4.92%
		MSU Credit Union Total w/CD	\$ 1,602,730.34		CPF Average Weighted Yield:	4.91%
\$394 Million	5 stars	LAFCU Savings	\$ -			
		LAFCU Total w/CD	\$ -			
\$113 Billion	3.5 stars	CASE Cr Un	\$ 6.38			
		CASE Cr Un Total w/CD	\$ 6.38			
\$113 Billion	3.5 stars	SBM Flagstar ICS Checking	\$ 305,298.91	3.80%		
		ADS Flagstar ICS Checking Account	\$ 164,586.41	3.80%		
		CPF Flagstar ICS Checking	\$ 226,707.82	3.80%		
		Flagstar Bank FDIC Insured	\$ 696,593.14			

Assets	Rating	Financial Institution Summary		Interest Rates	Maturity
N/A	N/A	SBM US Treasuries			
		HT7	\$ 949,584.61	5.20%	06/06/24
		ZW2	\$ 1,396,519.25	5.13%	06/20/24
		Y52	\$ 696,718.17	5.08%	07/05/24
		JT5	\$ 481,301.07	5.03%	07/25/24
		JU2	\$ 1,288,803.93	4.99%	08/01/24
		KX4	\$ 272,147.18	5.22%	08/13/24
		GL5	\$ 394,548.00	4.77%	09/05/24
		HE0	\$ 909,890.04	4.66%	10/31/24
		LD7	\$ 366,173.47	5.19%	11/14/24
		HP5	\$ 1,461,544.83	4.77%	11/29/24
		JR9	\$ 1,016,403.94	4.68%	01/23/25
		LB1	\$ 857,442.00	5.00%	05/15/25
		KS9	\$ 275,042.97	4.93%	05/31/26
		US Gov MM Fund-SXX	\$ 427,166.98	4.87%	-
		SBM US Treasuries Total	\$ 10,793,286.44		
		CPF US Treasuries			
		HT7	\$ 329,855.71	5.19%	06/06/24
		ZW2	\$ 598,508.25	5.13%	06/20/24
		Y52	\$ 995,311.67	5.08%	07/05/24
		JU2	\$ 346,985.67	4.99%	08/01/24
		HP5	\$ 584,617.93	4.77%	11/29/24
		US Gov MM Fund - GXX	\$ 458,725.36	4.72%	-
		CPF US Treasuries Total	\$ 3,314,004.59		
		ADS US Treasuries			
		HT7	\$ 199,912.55	5.19%	06/06/24
		FS1	\$ 249,634.38	5.11%	06/13/24
		ZW2	\$ 448,881.19	5.13%	06/20/24
		Y52	\$ 348,359.08	5.08%	07/05/24
		JT5	\$ 759,165.60	5.03%	07/25/24
		GK7	\$ 321,874.86	5.03%	08/08/24
		KY2	\$ 692,045.08	5.22%	08/20/24
		GL5	\$ 394,548.00	4.77%	09/05/24
		HP5	\$ 730,772.42	4.75%	11/29/24
		ZV4	\$ 291,329.55	4.72%	12/26/24
		JR9	\$ 304,921.18	4.67%	01/23/25
		LB1	\$ 285,814.00	5.11%	05/15/25
		UG Gov MM Fund	\$ 327,961.83	4.87%	-
		ADS US Treasuries Total	\$ 5,355,219.72		
		US Treasuries Total	\$ 19,462,510.75		
		SBM Flagstar Savings	\$ 239,227.37	4.05%	
			\$ 239,227.37		

Assets	Rating	Financial Institution Summary		Interest Rates	Maturity
		SBM Flagstar CDARS	\$ 700,000.00	4.60%	02/06/25
\$7.8 Billion	5 stars	SBM-CD MSU Credit Union	\$ 252,036.00	5.00%	05/29/25
		SBM-CD MSU Credit Union	\$ 262,537.51	5.00%	05/29/25
		SBM-CD MSU Credit Union	\$ 262,537.51	5.00%	05/29/25
		SBM-CD MSU Credit Union	\$ 262,537.51	5.00%	05/29/25
		SBM-CD MSU Credit Union	\$ 550,000.00	4.50%	08/02/25
\$7.8 Billion	4 stars	Horizon Bank	\$ 253,199.32	5.18%	06/04/24
		Horizon Bank	\$ 253,199.32	5.18%	06/04/24
		Horizon Bank	\$ 253,199.32	5.18%	06/04/24
		Horizon Bank	\$ 253,199.32	5.18%	06/04/24
		Horizon Bank	\$ 253,199.32	5.18%	06/08/24
		Horizon Bank	\$ 253,199.32	5.18%	06/08/24
		Horizon Bank	\$ 244,011.87	4.90%	10/28/24
		Horizon Bank	\$ 244,011.87	4.90%	10/28/24
Bank CD Totals		\$ 3,596,868.19			
Total Cash & Investments (excluding Schwab)		\$ 24,866,749.90			
		SBM - Charles Schwab (Ret HC Trust)	\$ 4,525,791.31	Mutual Funds	
		ADB - Charles Schwab (Ret HC Trust)	\$ 1,503,820.06	Mutual Funds	
		AGC - Charles Schwab (Ret HC Trust)	\$ 4,585,487.05	Mutual Funds	
Charles Schwab Totals		\$ 10,615,098.42			
Grand Total (including Schwab)		\$ 35,481,848.32			
Total amount of cash and investments not FDIC-insured					
(excluding Schwab and JPM held Tbills and Gov MM)		\$ 3,109,959.06	57.55%		

Notes:

- All amounts are based on reconciled book balance and interest rates as of 5/31/24.
- CDARS when used are invested in multiple banks up to the FDIC limit for each bank.
- Funds held in bank accounts are FDIC insured up to \$250,000 per bank.
- Actual unreconciled Chase balance per statements was \$208,193.67(**).
- Bank Star rating from Bauer Financial.
- Lockbox fees are offset by 0.30% p.a. on average monthly balance (*)
- Average weighted yields exclude retiree health care trusts.
- Funds held in SBM Entities Trust with Schwab are invested in Tbills and government money market funds (30%), bond mutual funds (20%), and equity mutual funds (50%).
- Asset size & ratings updated 6/11/24



Note: The State Bar of Michigan has no bank debt outstanding

Monthly SBM Attorney and Affiliate Report - May 31, 2024

FY 2024

	September 30 2018	September 30 2019	September 30 2020	September 30 2021	September 30 2022	September 30 2023	May 31 2024	FY Increase (Decrease)
Attorneys and Affiliates In Good Standing								
Active	42,342	42,506	42,401	42,393	42,395	41,985	41,369	(616)
Less than 50 yrs serv	40,973	41,036	40,559	40,504	40,680	40,115	39,325	(790)
50 yrs or greater	1,369	1,470	1,842	1,889	1,715	1,870	2,044	174
Voluntary Inactive	1,169	1,139	1,192	1,097	1,072	1,106	1,278	172
Less than 50 yrs serv	1,142	1,105	1,149	1,055	1,030	1,059	1,230	171
50 yrs or greater	27	34	43	42	42	47	48	1
Emeritus	2,204	2,447	2,727	3,033	3,306	3,733	4,181	448
Total Attorneys in Good Standing	45,715	46,092	46,320	46,523	46,773	46,824	46,828	4
Fees paying Attorneys (Active & Inactive less than 50 yrs of Serv)	42,115	42,141	41,708	41,559	41,710	41,174	40,555	(619)
Affiliates								
Legal Administrators	10	10	8	5	2	2	4	2
Legal Assistants	401	393	317	219	214	194	178	(16)
Total Affiliates in Good Standing	411	403	325	224	216	196	182	(14)
Total Attorneys and Former Attorneys in the Database								
State Bar of Michigan Attorney and Affiliate Type	September 30 2018	September 30 2019	September 30 2020	September 30 2021	September 30 2022	September 30 2023	May 31 2024	FY Increase (Decrease)
Attorneys in Good Standing:								
ATA (Active)	42,342	42,506	42,401	42,393	42,395	41,985	41,369	(616)
ATVI (Voluntary Inactive)	1,169	1,139	1,192	1,097	1,072	1,106	1,278	172
ATE (Emeritus)	2,204	2,447	2,727	3,033	3,306	3,733	4,181	448
Total Attorneys in Good Standing	45,715	46,092	46,320	46,523	46,773	46,824	46,828	4
Attorneys Not in Good Standing:								
ATN (Suspended for Non-Payment of Dues)	6,072	6,246	6,416	6,472	6,588	6,824	7,106	282
ATDS (Discipline Suspension - Active)	439	440	445	449	454	456	461	5
ATDI (Discipline Suspension - Inactive)	19	24	25	25	25	25	26	1
ATDC (Discipline Suspension - Non-Payment of Court Costs)	15	16	16	14	14	15	15	-
ATNS (Discipline Suspension - Non-Payment of Other Costs)	95	98	100	102	106	104	109	5
ATS (Attorney Suspension - Other)*	1	1	2	-	-	-	-	-
ATR (Revoked)	583	596	613	623	634	645	649	4
ATU (Status Unknown - Last known status was inactive)**	2,070	2,070	2,070	2,070	2,047	2,047	2,047	-
Total Attorneys Not in Good Standing	9,294	9,491	9,687	9,755	9,868	10,116	10,413	297
Other:								
ATSC (Former special certificate)	155	157	158	164	167	170	172	2
ATW (Resigned)	1,689	1,798	1,907	2,036	2,143	2,282	2,412	130
ATX (Deceased)	9,287	9,524	9,793	10,260	10,664	10,958	11,158	200
Total Other	11,131	11,479	11,858	12,460	12,974	13,410	13,742	332
Total Attorneys in Database	66,140	67,062	67,865	68,738	69,615	70,350	70,983	633

* ATS is a new status added effective August 2012 - suspended by a court, administrative agency, or similar authority

** ATU is a new status added in 2010 to account for approximately 2,600 attorneys who were found not to be accounted for in the IMIS database
The last known status was inactive and many are likely deceased. We are researching these attorneys to determine a final disposition.

N/R - not reported

Notes: Through May 31, 2024 a total of 631 new attorneys joined SBM.

TO: Board of Commissioners

FROM: Professional Standards Committee

DATE: July 26, 2024, BOC Meeting

RE: Client Protection Fund Claims for Consent Agenda

Rule 15 of the Client Protection Fund Rules provides that “claims, proceedings and reports involving claims for reimbursement are confidential until the Board authorizes reimbursement to the claimant.” To protect CPF claim information as required in the Rule, and to avoid negative publicity about a lawyer subject to a claim, which has been denied and appealed, the CPF Report to the Board of Commissioners is designated “confidential.”

**CONSENT AGENDA
 CLIENT PROTECTION FUND**

Claims recommended for payment:

Consent Agenda:

	<u>Claim No.</u>	<u>Amt. Recommended</u>
1.	CPF 3990	\$1,500
2.	CPF 4057	\$11,950
3.	CPF 4083	\$185
4.	CPF 4113	\$2,600
5.	CPF 4028	\$11,700
	TOTAL	\$27,935

CPF 3990 – \$1,500

Claimant retained Respondent to represent them in a garnishment of wages and income tax refund matter for a fee of \$1,500. Respondent requested the date for a Debtors Exam but did not file the required pleadings. As a result, the Court removed the exam date and closed the case. Respondent completed no other legal services, ultimately abandoning the Claimant's matter. Respondent's failure to return the unearned fees constitutes dishonest conduct and is a reimbursable loss provided by CPF Rule 7(A)(1).

CPF 4057 - \$11,950

Claimant retained Respondent for representation in a criminal matter. Respondent appeared for one hearing. Less than 30 days later, Respondent was suspended from the practice of law due to an unrelated disciplinary action. Respondent did not inform Claimant of the suspension, continuing to assert that they would appear for an upcoming hearing on Claimant's behalf. Then, Respondent abandoned the matter.

Respondent did not complete the legal services before being suspended from the practice of law and later disbarred. Respondent's failure to return the unearned fee constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rule 7(A)(1). An order disciplining an attorney for the same misconduct alleged in the Client Protection Fund Application is evidence of the misconduct. CPF Rule 10(D)(1).

CPF 4083 - \$185

Claimant retained Respondent to file a Probate Court action and "reimbursed" Respondent for the \$185 filing fee. Respondent did not file the Probate petition before being suspended from the practice of law and later disbarred. Respondent's failure to return the unspent costs constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rule 7(A)(1).

CPF 4113 - \$2,600

Claimant retained Respondent to represent them in an emergency custody matter and paid the advance fee of \$2,500 for the retainer and \$100 for filing fees. Respondent provided updates to Claimant about the progress but filed no pleadings, ultimately abandoning the matter. Respondent promised to provide Claimant with a refund, but did not remit the funds.

Respondent did not complete the legal services before being suspended from the practice of law and later disbarred. The ADB, in suspending/revoking Respondent's license to practice law found, among other things, that Respondent failed to refund the advance payment of an unearned fee after termination of the representation. Respondent's failure to return the unearned fees constitutes dishonest conduct and is a reimbursable loss provided by CPF Rule 7(A)(1). CPF Rule 10(D)(1) states that an order disciplining a lawyer, or a final non-default judgment imposing civil or criminal liability for the dishonest act or conduct that comports with Rule 7(A) is conclusive evidence that the lawyer engaged in the dishonest conduct.

CPF 4028 - \$11,700

Respondent was retained to represent Claimant in a contract matter pursuant to an hourly fee agreement, which provided for a \$300 hourly rate. Claimant paid Respondent a retainer of \$12,000 to commence work.

Respondent negotiated with a storage company, but was then suspended from the practice of law in an unrelated disciplinary matter. Respondent did no other work for this matter. Based upon the information provided, it can be estimated that the negotiation took only one hour to complete.

Respondent admitted to the Attorney Grievance Commission (AGC) that, since suspension, Respondent kept the fees that clients gave them and lied to them about working on their case while trying to figure out a way to actually work on their cases. Respondent's failure to return the unearned fees constitutes dishonest conduct and is a reimbursable loss provided by CPF Rule 7(A)(1).

Rule 10(D)(1) states that "an order disciplining a lawyer, or a final non-default judgment imposing civil or criminal liability for the dishonest act or conduct that comports with Rule 7(A) is conclusive evidence that the lawyer engaged in the dishonest conduct". As the Attorney Discipline Board ultimately suspended and later revoked Respondent's license, Respondent could not earn the full \$12,000 fee charged to the Claimant, supporting that a partial refund of \$11,700 is appropriate in this situation.



**FROM THE COMMITTEE
ON MODEL CRIMINAL
JURY INSTRUCTIONS**

=====

The Committee on Model Criminal Jury Instructions solicits comment on the following proposal by August 1, 2024. Comments may be sent in writing to Samuel R. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to MCrimJI@courts.mi.gov.

=====

PROPOSED

The Committee proposes a new instruction, M Crim JI 5.14a (screening of witness) where the court has permitted a witness to be screened from viewing the defendant at trial. The instruction is entirely new.

[NEW] M Crim JI 5.14a Screening of Witness

You [will hear / are about to hear / have heard] testimony from a witness who [will testify / has testified] with the use of a screen. The use of a screen in this manner is authorized by law, and you must disregard it when deciding this case. Your decision must be based solely on the evidence presented. You may not consider the witness's testimony to be any more or less credible because of the screen. You must not allow it to influence your decision in any way.

Use Note

By adopting this jury instruction, the Committee on Model Criminal Jury Instructions does not take any position whether the use of a screen outside of the provisions of MCL 600.2163a is authorized. (Where the court determines that procedures under MCL 600.2163a are allowed, this instruction would be unnecessary because there would be no change in the courtroom setup between witnesses pursuant to (19)(b) of the statute.) Some Michigan cases appear to implicitly permit the use of a screen. See *People v Rose*, 289 Mich App 499; 808 NW2d 301 (2010), finding no Confrontation Clause or Due Process Clause constitutional bar to the use of a screen, and allowing the use

of a screen under the court's inherent ability to control courtroom proceedings. However, no case involving the use of a screen has discussed MCL 763.1, the last phrase of which could be considered as prohibiting the use of a screen between a witness and a defendant (“ . . . the party accused shall be allowed to . . . meet the witnesses who are produced against him face to face.”).

Public Policy Position
M Crim JI 5.14a

Support

Explanation:

The Committee voted to support the new Model Criminal Jury Instruction 5.14a.

The committee recognized that a substantial question exists whether a screen between witness and defendant is lawful, as the commentary to the proposed 5.14a acknowledges. However, until the Michigan Supreme Court resolves the issue, it believes that this instruction should be given when a trial court opts to permit a screen.

Position Vote:

Voted For position: 15

Voted against position: 0

Abstained from vote: 0

Did not vote (absent): 9

Contact Persons:

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John A. Shea jashea@earthlink.net



**FROM THE COMMITTEE
ON MODEL CRIMINAL
JURY INSTRUCTIONS**

=====

The Committee on Model Criminal Jury Instructions solicits comment on the following proposal by August 1, 2024. Comments may be sent in writing to Samuel R. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to MCrimJI@courts.mi.gov.

=====

PROPOSED

The Committee proposes amending jury instruction M Crim JI 7.6 (Duress) to comport with discussions of the defense in *People v Reichard*, 505 Mich 81, 96 n 32 (2020), and *People v Lemons* 454 Mich 234, 248 n 21 (1997). A question remains which party bears the burden of proof relative to the defense of duress, so alternative paragraphs are provided. Deletions are in ~~strike-through~~, and new language is underlined. A “clean copy” without the struck language but including the added language is also provided (without the Use Note).

[AMENDED] M Crim JI 7.6 Duress

- (1) The defendant says that [he / she] is not guilty because someone else’s threatening behavior made [him / her] act as [he / she] did. This is called the defense of duress.
- (2) The defendant is not guilty if [he / she] committed the crime while acting under duress. ~~Under the law, there was duress~~ The defendant acted under duress if {four/~~five~~} things were true:
 - (a) One, the threatening or forceful behavior would have made a reasonable person fear that he or she was facing immediate death or serious bodily harm;.
 - (b) Two, the defendant actually was afraid of death or serious bodily harm;
 - ~~(c) Three, the defendant had this fear~~ at the time [he / she] acted;.

~~(d) Four~~ (c) Three, the defendant committed the act to avoid the threatened harm;

~~[(e) Five (d) Four,~~ the situation did not arise because of the defendant's fault or negligence.]¹

(3) The defendant has forfeited the defense of duress if you find [he / she] did not take advantage of a reasonable opportunity to escape, without being exposed to death or serious bodily injury, or if [he / she] continued [his / her] conduct after the duress ended.

(4) In deciding whether duress made the defendant act as [he / she] did, think carefully about all the circumstances as shown by the evidence.

Think about the nature of any force or threats. Think about the background and character of the person who made the threats or used force. Think about the defendant's situation when [he / she] committed the alleged act. Could [he / she] have avoided the harm [he / she] feared in some other way than by committing the act? Think about how reasonable these other means would have seemed to a person in the defendant's situation at the time of the alleged act.¹

[(5) The prosecutor must prove beyond a reasonable doubt that the defendant was not acting under duress. If [he / she] fails to do so, you must find the defendant not guilty.

Or

(5) You should consider the elements of duress separately. If you find that the defendant has proved all of these elements by a preponderance of the evidence, you must find [him / her] not guilty. If the defendant has failed to prove all of these elements or has forfeited the defense, [he / she] was not acting under duress.]²

Use Note

This instruction should be used only when there is some evidence of the essential elements of duress.

1—~~Use (e) only where there is some evidence that the defendant found himself in the position of having to commit the crime through his own fault or negligence. Michigan law is unclear on whether a defendant can claim duress only where the defendant is completely free of fault.~~

- 2 1. In escape cases, the special factors listed in M Crim JI 7.7 should also be given if they are supported by competent evidence.
2. The question whether the burden is on the defendant to establish duress by a preponderance of the evidence, or on the prosecutor to disprove duress beyond a reasonable doubt, was avoided by the Michigan Supreme Court in both *People v Reichard*, 505 Mich 81, 96 n32; 949 NW2d 64 (2020), and *People v Lemons* 454 Mich 234, 248 n21: 562 NW2d 447 (1997). Another affirmative defense – self-defense – places the burden of proof on the prosecutor to disprove the defense once evidence of self-defense has been introduced. The burden being on the defendant to establish an insanity defense is statutorily determined, but there is no statute relative to the duress defense. The Committee on Model Criminal Jury Instructions takes no position on the question of who has the burden of proof, but provides alternative paragraphs (5).

Clean copy:

[AMENDED] M Crim JI 7.6 Duress

- (1) The defendant says that [he / she] is not guilty because someone else's threatening behavior made [him / her] act as [he / she] did. This is called the defense of duress.
- (2) The defendant is not guilty if [he / she] committed the crime while acting under duress. The defendant acted under duress if four things were true:
 - (a) One, the threatening or forceful behavior would have made a reasonable person fear that he or she was facing immediate death or serious bodily harm;
 - (b) Two, the defendant actually was afraid of death or serious bodily harm at the time [he / she] acted.
 - (c) Three, the defendant committed the act to avoid the threatened harm.
 - (d) Four, the situation did not arise because of the defendant's fault or negligence.

- (3) The defendant has forfeited the defense of duress if you find [he / she] did not take advantage of a reasonable opportunity to escape, without being exposed to death or serious bodily injury, or if [he / she] continued [his / her] conduct after the duress ended.
- (4) In deciding whether duress made the defendant act as [he / she] did, think carefully about all the circumstances as shown by the evidence.

Think about the nature of any force or threats. Think about the background and character of the person who made the threats or used force. Think about the defendant's situation when [he / she] committed the alleged act. Could [he / she] have avoided the harm [he / she] feared in some other way than by committing the act? Think about how reasonable these other means would have seemed to a person in the defendant's situation at the time of the alleged act.¹

- [(5) The prosecutor must prove beyond a reasonable doubt that the defendant was not acting under duress. If [he / she] fails to do so, you must find the defendant not guilty.

Or

- (5) You should consider the elements of duress separately. If you find that the defendant has proved all of these elements by a preponderance of the evidence, you must find [him / her] not guilty. If the defendant has failed to prove all of these elements or has forfeited the defense, [he / she] was not acting under duress.]²

Public Policy Position
M Crim JI 7.6

Support

Explanation:

The Committee voted to support the proposed amendments to Model Criminal Jury Instruction 7.6. While expressing some frustration that the Michigan Supreme Court had not provided greater clarity to the issue of duress as of yet, the Committee believes these proposed amendments will help provide trial courts with workable guidance until such time as the Court opts to act.

Position Vote:

Voted For position: 8

Voted against position: 5

Abstained from vote: 1

Did not vote (absent): 10

Contact Persons:

Nimish R. Ganatra ganatran@washtenaw.org

John A. Shea jashea@earthlink.net

State Bar of Michigan

2024 50-Year Golden Celebration Luncheon

Event Summary

Name of Event: 50-Year Golden Celebration Luncheon

Date(s) of Event: May 23, 2024

Location of Event: Saint John's Resort Plymouth, MI

TOTAL NUMBER OF ATTENDEES			
	2024 Plymouth	2023 Plymouth	2022 Novi
50-Yr Honoree	156	158	141
Guests	215	205	149
Commissioners	8	7	7
Staff	10	10	12
Past Presidents	4	4	2
Total Attendees	393	384	313
Net Promotor Score (NPS)	81	85	N/A

Evaluation Summary

The 2024 50-Year Golden Celebration was a success, with a world class Net Promoter Score (NPS) of 81. Attendance increased from previous years, which due to the capacity of the facility required a waitlist for guests. However, no honorees were turned away. The overwhelming sentiment from respondents was extremely positive, naming fellowship and camaraderie as the primary reason for their enjoyment. Comments such as *"It was a great social event."* and *"I enjoyed seeing many old friends and sharing memories."* were common themes from the feedback received. Attendees had an opportunity to mingle, have professional photos taken, enjoy refreshments, and network in the garden gallery with alumni association representatives from the big three law schools including University of Michigan (U of M) Law School, Michigan State University (MSU) College of Law, and Wayne State University (WSU) Law School.

Honorees appreciated that the event ran on time and was well organized, speeches were kept short, and that the focus was truly on giving honorees time to connect and celebrate. The main suggestion for improvement was to address the long wait times for the photography sessions due to the increased number of attendees. Bar staff will attempt to address this issue for next year.

Saint John's Resort was highly rated as a venue and the meal selections received positive reviews. Entertainment included a barbershop quartet, *Forum Shoppers*, and a spirited game of *My Trivia Live*, both of which were well received. When asked about the best part of the event, one attendee commented, *"Everything. It was extremely well done. The photos were a very nice touch, the buttons were nice, the musical rendition and Trivia were lots of fun. Very well organized,"* which seemed to be the overall sentiment of attendees.

State Bar of Michigan 2024 Great Lakes Legal Conference Event Summary

Name of Event/Date:	2024 Great Lakes Legal Conference, June 14-15, 2024
Location of Event:	Grand Hotel, Mackinac Island, MI
Registration Fee:	\$225 before May 14, \$275 after May 14
Hotel Registration Fee:	\$568.34 single (tax & fees included); \$102.82 guest

TOTAL NUMBER OF ATTENDEES				
	2019	2022	2023	2024
Registered Attendees	153	157	182	168
Board of Commissioners	29	28	30	31
Speakers	17	14	13	17
Staff	14	13	12	15
Guests	127	136	145	150
Net Promotor Score (NPS)	N/A	N/A	47	65

** 2019 and 2022 represent the combined totals for the Bar Leadership Forum and Upper Michigan Legal Institute.

Evaluation Summary

The 2024 Great Lakes Legal Conference (GLLC) garnered an overall positive response for its engaging and informative sessions along with its networking opportunities, receiving a Net Promoter Score (NPS) of 65, which is an increase from the previous year. Of the number of attendees, 71 surveys were received, giving a 39.0% survey response rate of registered attendees and members of the Board of Commissioners. Respondents named the qualities of the speakers and the topics covered as the best part of the conference, followed by the available networking opportunities with fellow colleagues. Some noted comments included the quality and length of the presentations, knowledgeable speakers, and the sessions being well-designed and effective. Respondents provided several suggestions for improvements for future conferences such as lengthening the break time between sessions to allow for additional networking and movement between sessions, to reduce the cost of attendance, and more substantive programming.

The variety and relevance of the topics, including wellness, updates on marijuana law, artificial intelligence, and leadership strategies, were specifically called out within the surveys. Attendees also found the legal updates to be extremely useful, offering timely and relevant information that could be immediately applied to their practices, but some requested to provide additional sessions on other areas of law. Suggested topics on future sessions were provided within the survey. The leadership track received special mention for its valuable insights,

although there were suggestions to include more content aimed at those who aspire to move into leadership roles.

Several survey rating questions were provided, and the following is a breakdown of those responses:

- How likely is it that you would recommend the Great Lakes Legal Conference to a friend of colleague (scale: 1-10)?
 - 9 or above: 50 responses
 - 7-8: 17 responses
 - 6 or below: 4 responses
 - Did not respond: 0
- Overall, how would you rate the Grand Hotel (scale: 1-5)?
 - 4 or above: 56 responses
 - 3: 7 responses
 - 2 or below: 8 responses
 - Did not respond: 0
- How important was the location of this event in your decision to attend (scale: 1-5)?
 - 4 or above: 43 responses
 - 3: 11 responses
 - 2 or below: 13 responses
 - Did not respond: 4
- How would you rate the date (scale: 1-5)?
 - 4 or above: 49 responses
 - 3: 14 responses
 - 2 or below: 5 responses
 - Did not respond: 3
- How likely is it that you will attend next year's Great Lakes Legal Conference (scale: 1-5)?
 - 4 or above: 49 responses
 - 3: 13 responses
 - 2 or below: 6 responses
 - Did not respond: 3
- How likely is it that another colleague from your organization will attend next year's Great Lakes Legal Conference (scale: 1-5)?
 - 4 or above: 39 responses
 - 3: 8 responses
 - 2 or below: 19 responses
 - Did not respond: 5

The majority of responses signaled that attendees would recommend the conference to a friend or colleague and were satisfied with the Grand Hotel. Comments indicated that attendees were not satisfied with the flow of the reception on the porch and there were several comments regarding the programming. Satisfactory responses were reduced when asked about the importance of the location of the conference, but a large number of attendees responded in the positive. However, it should be noted that members of the Bar who did not attend the conference were not provided

with a survey as to why they chose not to attend. While the date of the conference received satisfactory numbers, there were a few remarks stating that the conference should not be held on Father's Day weekend. Attendees will most likely attend the conference next year but there were several attendees that indicated they would not. Despite the satisfactory marks on the other questions, attendees were mixed as to whether another colleague from their organization would attend next year's conference.

Survey respondents appreciated the welcome and introduction by SBM President Daniel Quick and Chief Justice Elizabeth Clement. However, as the survey progressed requesting ratings of specific sessions, the number of non-attendees increased but those who did attend provided positive feedback.

SBM

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