

Excerpts from State Bar of Michigan Audited Financial Statements

and Other Supplementary Information, Year Ended September 30, 2018
with Report of Independent Auditors

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December 19, 2018

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

**RE: STATE BAR OF MICHIGAN
ANNUAL FINANCIAL REPORT—FY 2018**

With this letter, please accept the FY 2018 Annual Financial Report of the State Bar of Michigan. The Annual Financial Report covers the fiscal year ended September 30, 2018 and contains the audited financial statements and other information required by accounting standards or useful to understanding the operations and effectiveness of the State Bar of Michigan.

MAJOR ACCOMPLISHMENTS IN FY 2018

FY 2018 witnessed continued implementation of the State Bar's Strategic Plan which focuses on enhanced services to members and the public in a cost-effective manner. The Strategic Plan addresses the profound changes in the legal marketplace as identified in the Bar's 21st Century Practice Task Force. The Strategic Plan can be accessed on the State Bar's website at <https://www.michbar.org/file/generalinfo/pdfs/strategicplanreport17.pdf>.

Legal Resource and Referral Center

In FY 2018, the State Bar launched the country's first full-service state bar online Legal Resource and Referral Center. The new service is taking full advantage of online access, automated administration, consumer-centered business practices using data-driven marketing and feedback, and new standards of accountability based on best business practices and ethics. It includes lawyer referral, the online attorney directory, and educational materials to help consumers with their legal needs.

A Modest Means Referral Program for consumers who do not qualify for legal aid but have limited resources was developed within the online Legal Resource and Referral Center. Its initial focus is family law and bankruptcy. The Modest Means panel is available to income-eligible clients who are at 200 percent of the poverty guidelines and almost 200 modest means referrals were handled by panel members since the inception in February 2018. The Modest Means Program is being expanded to include people with incomes up to 250 percent of the poverty level. Case types will include general civil matters, probate, driver's license restoration, expungements, and more.

In addition, education materials and practice support materials were created to implement limited scope representation rules. Lawyer referral service programs were developed for limited scope representation in family, consumer, and landlord-tenant practice areas.

A second phase of the Legal Resource and Referral Center portal is nearing completion that will enable call center staff to process referrals and attorney panel members to manage their panel membership online.

Support of the Access to Justice Fund

The Access to Justice Campaign revenue (including pledges) for the fiscal year ended September 30, 2018, was more than \$1,012,000 (unaudited), including \$35,000 of unique gifts. The Access to Justice Campaign is a centralized campaign, administered by the Michigan State Bar Foundation in partnership with the State Bar of Michigan, to raise money for 15 civil legal aid programs in Michigan. Approximately \$17.5 million has been received

to date by the Access to Justice Fund in donations and pledges. During FY 2018, the State Bar provided financial support to the MSBF to hire a fund-raising coordinator and redesigned the Michigan State Bar Foundation's e-commerce payment web page to streamline the ATJ Fund donation process. Access to Justice Fund contributions are received and administered by the Michigan State Bar Foundation. More information about the Access to Justice Fund can be found at atjfund.org.

Receivership Program Planning

The State Bar has been planning this past year for assuming the receivership program and related expenses in FY 2020, currently performed by the Attorney Grievance Commission. The program administers the closing of the law practice and transition of case files when an attorney dies or is otherwise unable to practice law, where no successor attorney is named. The State Bar is exploring options for the funding of this program, member education in this area, and possible court rule changes to require attorneys to name a successor attorney in advance of incapacitation or death.

Promoting Ethics

State Bar staff counsel responded to approximately 10–20 inquiries daily from attorneys and judges seeking informal advice through the Ethics Helpline. The Professional Ethics Committee issued three new ethics opinions, proposed amendments to comments to MRPC 1.1 and 1.6 regarding technical competency which were approved by the Board and proposed to the Supreme Court, and prepared additional FAQs on the ethical use of social media platforms. The State Bar presented its full-day "Tips and Tools for a Successful Practice" ethics seminar twice (November and May) and its half-day "Lawyer Trust Accounts: Management Principles and Recordkeeping Resources" seminar three times (October, February, and June). Staff counsel gave ethics presentations to professional responsibility classes at law schools, ICLE, various State Bar sections and bar-related entities, and various local and national bar associations. Staff counsel supported Professionalism in Action programs hosted by all five Michigan law schools.

Character & Fitness

The State Bar processed 823 character and fitness applications for the July 2017 and February 2018 bar exams—24 fewer applications than in FY 2017. A national trend of decreasing law school enrollment began several years ago. The decline in bar applications reflects smaller graduating classes and fewer applicants for admission. There were 52 State Bar District Committee interviews, 34 State Bar Standing Committee hearings, and 4 Board of Law Examiners hearings during FY 2018.

Software programming continues, integrating the Affidavit of Personal History, previously hosted on the website of the National Conference of Bar Examiners (NCBE), with the modernized admission system, which will include a database and communication portal. Effective with the July 2018 exam, applicants complete the Affidavit of Personal History on the State Bar's website.

Client Protection Fund

The Board of Commissioners approved payment of 34 Client Protection Fund claims totaling \$716,434 to reimburse clients whose attorneys misappropriated their funds during FY 2018. Claim payments totaling \$913,427 were disbursed from the Fund in FY 2018, which included a portion of claims approved by the Board of Commissioners in FY 2017. As of September 30, 2018, \$176,979 in approved claim payments remained pending, awaiting signed subrogation agreements from the prospective payees.

Unauthorized Practice of Law

There were 62 complaints alleging the unauthorized practice of law (UPL) received during FY 2018. The Board approved litigation in three matters where UPL is believed to have occurred and informal resolution to prevent further occurrence of the conduct could not be accomplished and three matters are pending Board review. Of the remainder, 20 were closed after investigation, 10 are pending committee review after investigation, 2 are pending resolution after committee review, and 24 remain open for further investigation and review.

Pro Hac Vice Processing

During FY 2018, the State Bar processed 757 pro hac vice applications through its pro hac vice online portal. The pro hac vice rule allows out-of-state and foreign lawyers to seek temporary admission to appear before a Michigan court, administrative tribunal or agency, or arbitration proceeding.

Lawyers and Judges Assistance

The Lawyers and Judges Assistance Program (LJAP) opened 62 new cases and provided monitoring or referral services to 220 clients. LJAP performed 49 assessments and monitored an average of 60 clients each month. The program also provided 49 telephone consultations for attorneys, law students, judges, or concerned colleagues or friends struggling with addiction or mental health issues. LJAP clinicians made 32 presentations to law students, attorneys, and judges on issues including addiction, stress management, and dealing with difficult personalities. Numbers are down slightly in activities other than presentations due to a clinician vacancy. LJAP staff have also participated in providing "On Balance" podcasts on wellness topics in conjunction with practice management.

Public Policy

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

Advocacy

In each of the past two years, the executive budget has called for the elimination of funding for the Legal Services Corporation (LSC), and despite that funding recommendation, LSC actually received a \$25 million increase for the current fiscal year, and is on track for a similar amount in the next fiscal year. The State Bar of Michigan has continued to successfully advocate for increased funding from the Michigan Congressional Delegation. In addition to having the majority of the Michigan representatives' and senators' votes to support increases in LSC funding, two of the four chairs of a specialty caucus to support civil legal aid are from Michigan, Representatives Debbie Dingell and Fred Upton. Fred Upton became one of the co-chairs of this legal aid caucus in large part due to the efforts of the State Bar's ABA Day lobbying efforts.

In June the FY 2018–2019 state budget was approved with an \$84 million appropriation for grants to improve indigent criminal defense systems across the state. This is the first time that the state is contributing directly to indigent defense services in Michigan.

This summer Governor Snyder signed Public Act 214 which made significant revisions to the Michigan Indigent Defense Act. Working with a coalition, the State Bar successfully made changes to the introduced version of the bill that will help maintain the independence of the MIDC, making the system more fair and cost effective.

The Civil Discovery Court Rule Review Special Committee and its five subcommittees consisted of 45 members, including lawyers, judges, and court administrators representing diversity in terms of areas of practice, nature of practice (large firm, solo, public interest, judiciary, etc.), geography, gender, ethnicity, and years of practice. The committee sought feedback on the proposal from all state bar members and over 50 stakeholder organizations, including relevant state bar sections and committees, special purpose bars, local bar associations, and other organizations. Based on the feedback received from these outreach efforts, the special committee revised

its proposal and submitted it to the Representative Assembly, which approved the proposal with only minor amendments by a vote of 91–21. The rule proposal is now being considered by the Michigan Supreme Court.

The State Bar's Representative Assembly advocated for proposed Payee Notification Rules that would require financial institutions to provide notification to payees of insurance settlements to clients as an added protection to prevent claims against the Client Protection Fund. These new rules require legislation in order for them to be enacted.

Sections of the State Bar

During FY 2018, membership in the State Bar's 43 sections totaled 66,993, including 32,229 paid memberships. Free section memberships are offered to new members, those qualifying for the Young Lawyers or Master Lawyers sections, and members of the judiciary.

A new section, the Religious Liberty Law Section, was approved by the Board of Commissioners to be the State Bar's 43rd section.

Committees of the State Bar

Volunteers filled 581 positions on the 29 standing and special committees and four justice initiatives of the State Bar. Eight nonlawyers were appointed to assist in that work. A new volunteer application portal streamlined the processing of SBM committee volunteer applications. An in-person and webinar orientation for new committee members and leaders was conducted to promote effective participation in the committee process and compliance with court rules, administrative orders, and State Bar bylaws and policies.

The committees were restructured in FY 2018 and each committee reports to a Board of Commissioners committee for oversight and alignment.

Promoting Outreach

The State Bar president and staff continued the tradition of visiting many of the approximately 125 local and special-purpose bars recognized by the State Bar, attending more than 50 affinity bar events. The visits gather information about the state of the profession throughout Michigan, and familiarize members with State Bar services, provide practice management and lawyers and judges assistance seminars, and support local civic education programs.

In June 2018, the State Bar held the annual Bar Leadership Forum to provide information and leadership training to bar leaders, and held the Upper Michigan Legal Institute which offered a range of legal topics to Northern Michigan lawyers.

Promoting Diversity and Collaboration in the Profession

The State Bar's continued diversity and inclusion efforts include the 2018 Brunch for Bars that focused on the law portion of the Truth Racial Healing and Transformation Project developed by the Kellogg Foundation which has funded 14 community programs across the nation including Genesee, Kalamazoo, Ingham, and Battle Creek; the Affinity Bar Summit held later in the year that consisted of facilitated sessions designed as a part of the Kellogg project; the Face of Justice program held in Detroit in partnership with the Urban League of Southeast Michigan, Comcast, and Wayne County Community College Detroit District; provided Implicit Bias Training designed to address a specific group of attorneys' concerns in decision making; a program on the impact of changes in immigration law on family law state court proceedings; and the annual diversity celebration at the NEXT Conference held in Grand Rapids.

Supporting Pro Bono

For the 10th year in a row, the State Bar sponsored Pro Bono Month in conjunction with the American Bar Association's Pro Bono Week celebration, a national recognition of pro bono activities. The Pro Bono Month celebration is an opportunity to recruit more pro bono volunteers, increase legal services to the poor, mobilize community support for pro bono, foster collaborative relationships, and recognize and publicize the pro bono efforts of lawyers.

The State Bar hosted the tenth annual Pro Bono Workshop on May 21, 2018. The workshop attracted another capacity crowd to the State Bar building, including legal aid staff, law firm and corporate attorneys, and many other stakeholders interested in increased access to justice for all. The workshop also provided an opportunity to showcase the many advancements

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in the State Bar's pro bono work, including the successful development of several Pro Bono Initiative-sponsored programs. The QDRO Pro Bono Program has been helping low-income clients for more than 11 years by preparing QDROs that enable clients to collect retirement benefits they are legally entitled to receive. The Tax Pro Bono Referral Panel Program, a partnership with the Taxation Section and Michigan's Low-Income Taxpayer Clinics, continued to help low-income clients from across Michigan. Since its inception in 2013, the program has placed nearly 160 cases with pro bono lawyers. The Michigan Patent Pro Bono Project, a partnership with the Intellectual Property Law Section, also continues to help low-income clients in Michigan, receiving more than 120 requests for assistance since it was created three years ago. Also, the Malpractice Insurance for Pro Bono Program continues to be a way for Michigan attorneys without malpractice insurance to receive coverage so they can provide pro bono legal assistance to low-income clients.

In April 2017, a MI Free Legal Answers pilot project was launched in Genesee County, in partnership with the local legal aid program. MI Free Legal Answers is a website that partners low-income clients who have legal questions with pro bono attorneys who answer their questions and refer the low-income clients to an appropriate legal or community service as appropriate. Throughout 2017 and 2018, in partnership with two legal aid programs, the pilot project continued to expand, ultimately offering services to income-eligible clients in Metro Detroit. To date, more than 300 low-income client questions have been posted and answered through the website. Due to low participation of pro bono attorneys, the pilot project ended in late 2018.

NEXT Conference (Annual Meeting)

The State Bar held its Annual Meeting during the NEXT Conference in Grand Rapids in September. The conference was well attended and the Institute of Continuing Legal Education (ICLE) provided educational content. The conference also included the State Bar Awards Banquet, the Celebrating Diversity Reception, an All-Member Networking Reception, the State Bar Inaugural Luncheon, an All-Member Luncheon, and the 50-Year Honoree Golden Celebration Luncheon.

Practice Management Resource Center

The Practice Management Resource Center (PMRC) continued to update and provide resources through the State Bar website. PMRC staff continued to respond to calls from lawyers and their staff seeking practice management advice via the PMRC helpline; authored practice management articles for the *Michigan Bar Journal* and external publications; broadcast the "On Balance" podcasts in partnership with the Lawyers and Judges Assistance Program; and participated in and developed webinars, podcasts, and numerous seminars and programs sponsored by the PMRC and/or local bar associations, the American Bar Association, ICLE, law schools, and bar-related entities.

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

Professionalism Summit

As the year ended, the State Bar finalized planning for the "Promoting Professionalism in the 21st Century Summit" held at the Michigan Supreme Court Hall of Justice on October 18, 2018. The Summit will be a gathering of respected judges and attorneys who will address the need to reinforce cultures of professionalism necessary to sustain a fair and impartial justice system, and will be the first of many to occur around the state.

Technology Improvements

A new telephone system based on voice over IP technology (VOIP) was installed to provide state-of-the-art telephone and call center communications at the State Bar.

New Detroit Satellite Office

The State Bar of Michigan signed a lease with the University of Detroit Mercy School of Law to establish a satellite office in downtown Detroit.

The office has space for small meetings and offices for staff working in the Detroit area.

Member Dues Modernization for 2018–2019

In an effort to further modernize the dues process and reduce processing expenses, further automation of the dues process (similar to the state of Michigan professional license renewals) was accomplished in FY 2018 to provide for online renewal as the standard process, add online check payment capability, and add the ability for members to complete their dues renewal online but pay by mailing a check.

Member Growth

A total of 936 new members joined the State Bar in FY 2018. Attorney members in good standing grew to 45,715 members, a net increase of 0.9 percent over FY 2017.

Financial Performance

As of September 30, 2018, the State Bar's net position in the Administrative Fund totaled \$12,800,771, an increase of \$522,896 during FY 2018 resulting from the transfer of the retiree health care trust into the Administrative Fund of \$2,771,178, partially offset by the use of operating reserves during FY 2018 of \$541,335, and by a decrease of \$1,706,947 during the year resulting from implementing GASB 75 for Other Post-Employment Benefits (OPEB) pertaining to retiree health care. The Retiree Health Care Trust's balance (now included within the Administrative Fund) totaled \$3,030,926, an increase of \$259,748 during FY 2018, which will be used for future retiree health care premiums. The Client Protection Fund's net position totaled \$2,009,754, a decrease of \$229,828 during FY 2018. The sections' net position totaled \$2,256,271, an increase of \$50,500 during FY 2018. The State Bar operates with no debt.

APPROVED FY 2019 BUDGET

The State Bar Board of Commissioners has approved a FY 2019 Administrative Fund budget totaling \$11,213,383, using \$1,696,986 of reserves, focused on continued accomplishment of the State Bar's strategic focus. As a result of careful management, the State Bar's dues cycle has been extended well beyond the normal seven-year cycle, and budgets using reserves are now expected and planned for into the foreseeable future. The FY 2019 budget includes additional resources for the Unauthorized Practice of Law, Lawyer Referral Service, and preparing for possible changes to the mandatory bar. A summary of the FY 2019 approved budget was published in the November 2018 *Michigan Bar Journal* and can also be found on the State Bar's website at www.michbar.org/generalinfo/.

MANAGEMENT'S RESPONSIBILITY

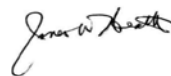
The State Bar of Michigan's management is responsible for the information provided in this FY 2018 Annual Financial Report. The basic financial statements and related notes are audited by the independent accounting firm of Andrews Hooper Pavlik PLC in accordance with auditing standards generally accepted in the United States of America, and their opinion is provided as a part of this report. Questions or comments on this FY 2018 Annual Financial Report should be directed to Janet K. Welch, executive director of the State Bar of Michigan.



Jennifer M. Grieco
President



Janet K. Welch
Executive Director



James W. Heath
Treasurer



James C. Horsch
Director of Finance and Administration