

State Bar of Michigan | 2016-2017 COMMITTEE ANNUAL REPORT

Article VI § 6, Bylaws of the State Bar of Michigan

No later than May 1 of each year, the chair of each committee and sub entity of the Bar, with the assistance of the staff liaison, shall report to the Executive Director on a form provided by the State Bar on the activities and accomplishments of the committee or sub entity.

Client Protection Fund

Jurisdiction: Make recommendations concerning the Client Protection Fund, including the investigation of claims, the distribution of payments authorized by the Board of Commissioners, and the institution and prosecution of all subrogation actions seeking to recoup monies paid from the Fund.

Co-Chair

- P57430 Starr M. Hewitt Kincaid, Livonia
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- P68725 Peter M. Neu, Holt
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Member

Term Ending: 2017

- P63962 Deborah Adenike AdeOjo, Lansing
P69623 Alexander A. Ayar, Southfield
P55880 Michael P. Haddock, Saugatuck
P40445 Diane Hutcherson, Detroit
P43310 Daniel M. Morley, Traverse City
P68725 Peter M. Neu, Holt

Term Ending: 2018

- P68592 Julie H. Pfitzenmaier Cotant, Farmington Hills
P65140 Jennifer M. Harvey, Ann Arbor
P57430 Starr M. Hewitt Kincaid, Livonia
P69744 Rico D. Neal, Lansing
P70308 Jane Frances Rusin, Allen Park

Term Ending: 2019

- P69338 David H. Goodkin, Lansing
P57346 Thomas H. Howlett, Bloomfield Hills
P16887 John J. Lynch, III, Troy
P34301 Mark L. Teicher, Bloomfield Township

Advisor

- P44552 Laura A. Brodeur-McGeorge, Bloomfield Hills
P72633 Dionnie Wynter Pfunde, Riverview

State Bar Liaison

- Robin Lawnichak, Lansing
P62825 Alecia M. Ruswinckel, Lansing

State Bar Liaison Assistant

Amy Emmons, Lansing

P53603 Danon D. Goodrum-Garland, Lansing
 Karen Spohn, Lansing

Committee Meeting Schedule:

Please attach any additional information needed regarding Committee meetings as an addendum.

**Please keep meeting descriptions brief.*

Meeting Type Description	Date	Location
Meeting Type Regularly scheduled Standing Committee meeting. Description	May 12, 2016	State Bar of Michigan
Meeting Type Regularly scheduled Standing Committee meeting. Description	August 4, 2016	State Bar of Michigan
Meeting Type Regularly scheduled Standing Committee meeting. Description	November 3, 2016	State Bar of Michigan
Meeting Type Regularly scheduled Standing Committee meeting. Description	February 2, 2017	Erman, Teicher, Miller, Zucker & Freedman, P.C. 400 Galler
Meeting Type Description		
Meeting Type Description		

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Resources provided by the State Bar of Michigan in support of committee work:

The State Bar provides a paralegal with primary responsibility for claims administration, a legal secretary who provides administrative support, and staff counsel who provides legal services and manages the State Bar’s CPF Department. The State Bar also provides meeting facilities, food and beverages for meetings, SBM Connect, teleconference services, meeting materials, document production services, and financial management of the Fund. For public education, State Bar staff provides informational pamphlets to court administrators as requested to educate the public on how to find a lawyer and general information about the Fund. Additionally, State Bar staff assists in and manages subrogation activities, working with outside counsel to recoup some of the money paid by the Fund.

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Committee Activities:

During its regularly scheduled meetings, the CPF Committee reviewed claim reports prepared by staff, determined whether claims should be recommended for approval or denial, and made recommendations to the Board of Commissioners' Professional Standards Committee regarding the approval and denial of claims and the amount to be paid on claims recommended for payment.

In September, 2016, the Client Protection Fund hosted the National Client Protection Organization's 2016 Fall Workshop at the Detroit Marriott in the Renaissance Center. The one-and-a-half-day Workshop was well attended by professionals and trustees of lawyers' funds from the United States, the District of Columbia, and Canada to discuss current and emerging issues regarding losses caused by a lawyer's misappropriation of client funds and methods to minimize these losses.

Payee Notification - A workgroup was formed to implement the proactive measure recommended by the 21st Century Task Force commonly referred to as Payee Notification.

CPF Rule Review - During the 2016/17 fiscal year, the CPF Committee reviewed CPF Rule 12(C) to consider revising the pro-ration formula by capping individual claimant's total loss at \$150,000. A workgroup was formed to review the single claimant maximum and aggregate maximum per Respondent identified in CPF Rules 12(B) & (C), which will review the maximums on a yearly basis. The Committee also began reviewing Rule 10(D) as it related to attorney fees paid for representation in CPF matters.

Policy Review - The CPF Committee began reviewing CPF policies regarding disgorgement of attorney fees, consequential or incidental damages, ADB/AGC final determination policy, and requiring a claimant to file a police report if allegations of embezzlement.

Complete Claims Activity: For the period April 1, 2016, through March 31, 2017, a total of 244 claims were processed, which consists of 111 new claims and 133 claims which were pending at the beginning of this period. One hundred forty (140) claims remain pending.

The CPF Standing Committee reviewed 68 claims during this time period. Eight claims were denied. Fifty-eight claims totaling \$667,516.79 were approved by the Board of Commissioners and paid, three claims totaling \$43,728.74 have been approved by the Board of Commissioners and await executed subrogation agreements; and 17 claims totaling \$291,764.36 are pending review by the Board of Commissioners. Claimants submitted six requests for review regarding claims denied and two regarding claims recommended for approval by the CPF Committee, two were submitted by respondents regarding claims recommended for approval, all have been reviewed by the Board of Commissioners' Professional Standards Committee.

Since the inception of the Fund, 1,295 claims have been paid totaling \$8,631,832.58, while 1,926 have been closed administratively, denied, or withdrawn.

Future Goals and Activities:

SBM Rule Proposal - CPF hopes that proposed SBR 20 will be submitted to the Michigan Supreme Court.

Payee Notification - A workgroup will work to implement the proactive measure recommended by the 21st Century Task Force commonly referred to as Payee Notification.

CPF Rule Review - A workgroup will review the single claimant maximum and aggregate maximum per Respondent identified in CPF Rules 12(B) & (C), which will review the maximums on a yearly basis. The Committee will also review Rule 10(D) as it related to attorney fees paid for representation in CPF matters.

Policy Review - The CPF Committee will review CPF policies regarding disgorgement of attorney fees, consequential or incidental damages, ADB/AGC final determination policy, and requiring a claimant to file a police report if allegations of embezzlement.

The Committee will investigate and work to implement additional proactive client protection initiatives such as random audits, fiduciary bonding, and fee arbitration/mediation.

Other Information:

Financial Activity – As of February 28, 2017, the Fund received \$268,265.00 from the 2016/17 membership dues assessment, \$5,280.00 in Pro Hac Vice fees, and \$7,751.60 reflecting contributions of abandoned lawyer trust funds and judicial campaign funds. In addition, the Fund received subrogation payments from respondents totaling \$24,023.70 during the period April 1, 2016, through March 31, 2017. The unaudited Fund balance as of February 28, 2017, was \$2,370,419.

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Approved by	Approved	Name
Co-Chair		Starr M. Hewitt Kincaid
Co-Chair		Peter Neu
Staff Liaison		Staff Liaisons, Robin Lawnichak and Alecia Ruswinckel
Other		

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