

President Courtade called the meeting to order at 9:40 a.m. on Friday, January 18, 2013 at the State Bar of Michigan Michael Franck Building

Commissioners present:

Kathleen M. Allen  
Dennis M. Barnes  
David R. Brake  
Robert J. Buchanan  
Lori A. Buiteweg, Secretary  
Margaret A. Costello  
Bruce A. Courtade, President  
Richard L. Cunningham  
Brian D. Einhorn, President-Elect  
Hon. James N. Erhart  
D. Randall Gilmer  
Stephen J. Gobbo  
Jennifer M. Grieco  
Edward L. Haroutunian  
Charles S. Hegarty  
Felicia O. Johnson

C. Thomas Ludden  
Maureen M. McGinnis  
Lawrence P. Nolan, Treasurer  
Jules B. Olsman  
Colleen A. Pero  
Hon. Michael J. Riordan  
Brandy Y. Robinson  
Donald G. Rockwell  
Thomas C. Rombach, Vice President  
Hope V. Shovein Grazini  
Richard J. Siriani  
Julie A. Sullivan  
Gregory L. Ulrich  
Dana M. Warnez  
Vanessa Peterson Williams

State Bar Staff present:

Janet Welch, Executive Director  
Marge Bossenbery, Executive Coordinator  
Gregory Conyers, Director, Diversity  
Candace Crowley, Director, External Development  
Peter Cunningham, Director, Governmental Relations  
Dawn Evans, Director, Professional Standards  
Cliff Flood, General Counsel  
Michael Harris, Data Base Analyst  
James Horsch, Director, Finance and Administration  
Lynn Ingram, Program Development and Communications Manager  
Nkrumah Johnson-Wynn, Service Counsel  
Davina Kent, Lawyer Referral Representative  
William Kramer, Director, Information Technology Services  
Janna Sheppard, Administrative Assistant  
Anne Smith, Administrative Assistant  
Kari Thrush, Member Services and Events Manager  
Anne Vrooman, Director, Research and Development

Guests

Jeffrey Fineis, Auditor, Andrews Hooper Pavlic PLC  
Jamie Rabe, Auditor, Andrews Hooper Pavlic PLC

**Consent Agenda**

The Board received the minutes from the November 16, 2012 Board of Commissioners meeting and the November 7, 2012 and December 11, 2012 Executive Committee meetings.

The Board received a list of the SBM President's recent activities.

The Board received a list of the SBM Executive Director's recent activities.

The Board received the FY 2013 Financial Reports through November 30, 2012.

The Board received the Client Protection Fund Claims.

The Board received the Litigation Status Report.

Motion offered and supported to approve the consent agenda. Motion adopted.

**COMMISSIONER COMMITTEES**

**Audit**, Lawrence P. Nolan, Chairperson  
**FY 2012 SBM Annual Financial Report**

Mr. Nolan provided the Commissioners with a link to use to review the FY 2012 SBM Annual Financial Report

**Status of Audit**

Mr. Nolan presented the Board with an update on the status of the audit.

Mr. Jeffrey Fineis and Ms. Jamie Rabe from Andrews Hooper Pavlic PLC, presented the Commissioners with an overview of the audit.

Mr. Horsch informed the Board that 96% of member dues had been paid and 37% of those were paid online.

**Finance**, Lawrence P. Nolan, Chairperson  
**FY2013 Financial and Investment Update**

Mr. Nolan presented the Board with a FY 2013 financial and investment update.

**Professional Standards**, Lori A. Buiteweg, Chairperson

Ms. Buiteweg reported that the committee reviewed the Client Protection Fund Claim during their meeting. She also reported that Tish Vincent, Director of the Lawyers and Judges Assistance Program (LJAP), gave a presentation to the committee.

**Programs and Services**, Thomas C. Rombach, Chairperson

There was no report given.

**Public Policy, Image and Identity**, Brian D. Einhorn, Chairperson

The Board received a written report from Justice Initiatives.

Court Rules

**ADM File No. 2011-19 Proposed Amendment of Rules 6.302 and Rule 6.310 of the Michigan Court Rules**

The proposed amendments of MCR 6.302 and MCR 6.310 would eliminate the ability of a defendant to withdraw a plea if the defendant and prosecutor agree that the prosecutor will recommend a particular sentence, but the court chooses to impose a sentence greater than that recommended by the prosecutor. Further, the proposal would clarify that a defendant's misconduct that occurs between the time the plea is accepted and the defendant's sentencing may result in a forfeiture of the defendant's right to withdraw a plea in either a Cobbs or Killebrew case.

Motion offered and supported to support the proposed amendment as it pertains to misconduct, but oppose not allowing withdrawing the plea if the court did not follow the recommendation. Motion adopted.

**ADM File No. 2011-25 Proposed Amendment of Rule 3.101 of the Michigan Court Rules**

The amendments of MCR 3.101 are adopted to reflect recent statutory changes enacted in MCL 600.4012(1) in which the effective period for a periodic garnishment of wages, salary, and other earnings was extended from 91 days to 182 days. The amendments of MCR 3.101(B) and (E) change the effective period for all periodic garnishments to 182 days. (The amendments do not limit the 182-day effective period to periodic garnishments that only involve wages, salary, and other earnings.)

Motion offered and supported to support the proposed amendment to court rule. Motion adopted.

**ADM File No. 2012-18 Proposed Amendment of Rule 2.512 of the Michigan Court Rules**

The Court has determined that the function of adopting, amending, and repealing model criminal jury instructions should be structured similar to that for model civil jury instructions. As part of that structural change, the Court is considering an amendment that would require trial courts to use model jury instructions in criminal cases under the same circumstances in which they are used in civil cases, i.e., if the instructions are applicable, accurately state the applicable law, and are requested by a party.

Motion offered and supported to support the proposed amendment and urge the Court to consider the issues expressed by the Criminal Jury Instructions Committee. Motion adopted. Ms. Shovein Grazini abstained.

**ADM File No. 2012-19 Proposed Amendment of Rules 3.913, 3.963, 3.965, and 3.974 of the Michigan Court Rules**

The proposed changes of MCR 3.913, 3.963, 3.965, and 3.974 are intended to incorporate the statutory changes enacted in 2012 Public Act 163.

Motion offered and supported to support the proposed amendment to the court rule. Motion adopted.

**LEADERSHIP REPORTS**

**President's Report**, Bruce A. Courtade, President

Mr. Courtade recognized the birthdays of Mr. Cunningham and Mr. Einhorn.

Mr. Courtade thanked the Board members for their condolences on his mother's passing.

Mr. Courtade offered his congratulations to Hon. James Erhart on his appointment to the 90<sup>th</sup> District Court.

Mr. Courtade referenced the July Cooley Law School magazine in which both Mr. Nolan and Mr. Rombach were mentioned.

Judicial Campaign Workgroup Update

Mr. Courtade informed the Board that he appointed a nine person work group on judicial campaign issues and that he appointed Mr. Rombach chair of the workgroup. Mr. Rombach gave the Board a summary of the workgroup's first meeting. He informed the Board that SBM staff is assisting the workgroup in obtaining information from other jurisdictions and that after the data is received, the workgroup will schedule another meeting.

Strategic Planning Committee

Mr. Courtade informed the Board that 2013 is the year when the Board needs to review the bar's strategic plan, pursuant to a two-year review cycle. He asked for volunteers to work on this effort and asked those who might be interested to let Ms. Vrooman, Ms. Welch, Ms. Bossenbery or himself know within the next week. Staff will provide the committee with suggestions for their review. The committee will bring their recommendations to the Board at a future meeting.

Indigent Criminal Defense Legislative Update

Mr. Cunningham informed the Board that the lame duck session was historic in that 30% of all bills that were sent to Governor Snyder during this legislative session were signed into law during the month of December. He said that from the SBM's perspective it was a good lame duck session because many of the bills that the State Bar took a supportive position on were passed. Unfortunately, one of the bills that did not get signed into law was the Indigent Criminal Defense Legislation. Mr. Cunningham reported that Governor Snyder considers this issue a priority and is supportive of enacting legislation this session, and that progress is being made toward that end.

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

Personnel Update

Ms. Brown introduced Lynn Ingram, Program Development and Communications Manager in the Communication Division

Mr. Kramer introduced Michael Harris, Data Base Analyst, in the Information Technology Division.

Ms. Johnson-Wynn introduced Davina Kent, Lawyer Referral Representative and Jenna Sheppard, Administrative Assistant in the Professional Standards Division.

July 2012 Bar Exam

Ms. Welch provided the Board with an update on the results of the July 2012 Bar Exam. Ms. Welch informed the Board that Michigan's law school deans met with the Board of Law Examiners (BLE) The BLE has posted a new position for an Executive Director of the BLE.

Solutions on Self Help Task Force Update

Ms. Welch provided the Board with an update on the Solutions on Self Help Task Force.

Big Picture and The Trends

Ms. Vrooman presented "The Big Picture 2012" on SBM member demographics.

Service to Sections Project and Focus Groups

This item was deferred to next meeting.

Diversity and Inclusion Advisory Committee

Mr. Conyers provided the Board with an update on the Diversity and Inclusion Advisory Committee and informed the Board that the committee met on April 25 with the new co-chairs, Hon. Cynthia Stevens and Rodney Martin.

Access to Board and Committee Meetings Policy

This item was deferred to next meeting.

Eye Witness Identification Task Force

Ms. Welch provided the Board with an update on the Eye Witness Identification Task Force. The Task Force has generated a law enforcement identification policy writing guide and law enforcement identification training guide.

Representative Assembly (R.A.) Report, Dana M. Warnez, Chairperson

Ms. Warnez provided the Board with an overview of the proposals that are being considered for discussion at the April 27 RA Meeting.

ABA Report

The Board received a written ABA report.

Young Lawyers Section Report (YLS), Felicia O. Johnson, Chairperson

Ms. Johnson provided the Board with an update on the activities of the Young Lawyers Section. Ms. Johnson reminded the Board that the annual Bowling Challenge between the YLS Executive Council and the Board of Commissioners

Comments from Commissioners

Mr. Courtade informed the Board that he was not sure if the Board would meet in March, but that a decision would be made soon and the Board would be informed once that determination is made.

Adjournment

The meeting was adjourned at 1:15 p.m.