

President Fershtman called the meeting to order at 10:00 a.m. on Friday, November 18, 2011 at the State Bar of Michigan building.

Commissioners present:

Kathleen M. Allen	Maureen M. McGinnis
Dennis M. Barnes	Lawrence P. Nolan
David R. Brake	Jules B. Olsman
Robert J. Buchanan	David A. Perkins
Lori A. Buiteweg, Treasurer	Colleen A. Pero
Margaret A. Costello	Michael J. Riordan
Bruce A. Courtade, President-Elect	Brandy Y. Robinson
Richard L. Cunningham	Donald G. Rockwell
Brian D. Einhorn, Vice President	Thomas C. Rombach, Secretary
Julie I. Fershtman, President	Richard J. Siriani
Stephen J. Gobbo	Angelique Strong Marks
Jennifer M. Grieco	Julie A. Sullivan
Edward L. Haroutunian	Laurin' C Roberts Thomas
Felicia O. Johnson	Gregory L. Ulrich
Donald E. McGinnis, Jr.	Dana M. Warnez

Commissioners absent and excused:

Commissioner James N. Erhart was absent and excused.

Guest

Alice Gordon, President, Michigan Lawyers Auxiliary

State Bar Staff present:

Janet Welch, Executive Director
Marge Bossenbery, Executive Coordinator
Nancy Brown, Member Services and Communications Division
Gregory Conyers, Director, Diversity
Candace Crowley, Director, External Development
Dawn Evans, Director, Professional Standards Division
Cliff Flood, General Counsel
Mary Frook, Director, Human Resources Division
Danon Goodrum-Garland, Investigative Counsel
James Horsch, Director, Finance and Administration Division
Nkrumah Johnson-Wynn, Service Counsel
William Kramer, Director, Information Technology Division
Elizabeth Lyon, Director, Governmental Relations
Anne Smith, Administrative Assistant
Naseem Stecker, Media and Public Relations Manager
Kari Thrush, Membership Services and Events Manager
Anne Vrooman, Director, Research and Development

State Bar of Michigan Section Report

The Board received a report from George W. Gregory, Chair, Probate and Estate Planning Section.

Consent Agenda

The Board received the minutes from both of the September 14, 2011 Board of Commissioners meetings and the Executive Committee meetings that were held on September 27 and October 18, 2011.

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 Client Protection Fund Claims, Unauthorized Practice of Law Complaints Proposed for Litigation and the District Character and Fitness Committee Appointments.

The Board received the FY 2011 Draft Financial Reports through September 30, 2011 and the Financial Safety Margin Calculation.

The Board received Section Bylaw amendments from the Business Law, Criminal Law, Insurance and Indemnity Law, Judicial Conference and the Latin American Bar sections.

A motion was made to remove agenda items V-C, District Character and Fitness Committee Appointments and VII-D, Judicial Conference Bylaw Amendment from the consent agenda.

Motion offered to approve the consent agenda as amended. Motion was supported and the consent agenda as amended was approved.

The Board discussed the items that were removed from the consent agenda.

District Character and Fitness Committee Appointments

A motion was offered to approve the District Character and Fitness Committee Appointments, but to have staff research the issue of when appointees should recuse themselves from hearing a case. Motion was supported and the motion carried.

Judicial Conference Bylaw Amendment

Motion offered to approve the Judicial Conference bylaw amendment after deleting the provision that the section is able to receive grants. Motion was supported and the motion carried.

The Board members took time to talk with one another and introduce each other to the entire Board.

COMMISSIONER COMMITTEES

Finance, Lori A. Buiteweg, Chairperson

At Ms. Buiteweg's request, Mr. Horsch presented the Board with an overview of the financial condition of the State Bar.

Ms. Buiteweg presented the Board with a FY 2012 Financial and Investment update.

Ms. Buiteweg provided the Board with a status on members' dues payments.

Audit Committee Update, Lori A. Buiteweg, Chairperson

Ms. Buiteweg provided the Board with a status of the audit. She reported that the auditing firm, Andrews Hooper Pavlic PLC will provide a report to the Board at the January 2012 meeting.

Professional Standards, Thomas C. Rombach, Chairperson

There was not a report.

Programs and Services, Brian D. Einhorn, Chairperson

The Board received the 2011 SBM Annual Meeting event summary.

Mr. Einhorn reported to the Board that the SBM Annual Meeting Committee met and discussed future locations for the SBM Annual Meeting. The committee recommended that State Bar staff should continue to rotate the locations for the annual meeting from the west side of the state to the southeast side of the state, but to look for a possible alternate site to the Hyatt Regency Hotel in Dearborn. Contracts are signed through 2014, so the decision affects meetings after that year.

A motion was offered to approve the pursuing alternate locations in the southeast area of the state for future meetings and to continue to rotate the location between the west and southeast side of the state. Motion was supported and motion carried.

Mr. Einhorn introduced the Job Target Mentor Board service which is being offered to SBM members. By enrolling in this service, new members are paired with more experienced lawyers who can offer assistance in a specific field. This new service is paired with the Career Center, which is receiving lots of member attention. The new service is responsive to the high level of interest in mentoring reflected in the member survey.

Public Policy, Image and Identity, Bruce A Courtade, Chairperson

The Board received written reports from Justice Initiatives and Governmental Consulting Services.

Ms. Lyons provided the Board with an update on the Governor's Indigent Defense Advisory Commission.

Court Rules

ADM File No. 2004-55 - Proposed Amendment of Rule 3.211 of the Michigan Court Rules

This proposed amendment would eliminate the requirement that the Supreme Court approve changes to the Uniform Support Order forms. Without explicit approval required by the Supreme Court, the forms would be updated in the same way as other forms that are revised on a regular basis within the State Court Administrative Office (SCAO).

Motion offered to support this proposal. Motion was supported and the motion carried.

ADM File No. 2010-15 - Proposed Amendment of Rule 6.005 of the Michigan Court Rules

This proposed amendment would clarify that trial counsel is required to make a defendant's file available to an appellate lawyer, and would be required to retain the file for at least five years. This file was prompted by reports of appellate counsel having difficulty obtaining trial materials (especially video or audio materials that were not transcribed as part of the transcript). The five-year period mirrors the five-year retention period contained in MRPC 1.15(b)(2)

Motion offered to support this proposal. Motion was supported and the motion carried.

ADM File No. 2010-20 - Proposed Amendment of Rule 6.302 of the Michigan Court Rules

This proposed amendment of MCR 6.302 would reinsert a requirement that a court advise a defendant who pleads guilty that the defendant's maximum possible prison sentence may be longer than the maximum possible prison sentence for a particular offense if the defendant falls within the parameters of the habitual offender statute (MCL 769.13). The statute allows a prosecutor to notify the defendant that the prosecutor intends to seek an enhanced sentence after the defendant pleads guilty. Thus, the sentence range given by the court may not take into account any sentence enhancement at the plea hearing.

Motion offered to oppose this proposal. Motion was supported and the motion carried.

Legislation
HB 4844

HB 4844 (Pettalia) Civil procedure; personal protection orders; statewide personal protection order registry; create, and provide for law enforcement information network (LEIN) access. Amends secs. 2950 & 2950a of 1961 PA 236 (MCL 600.2950 & 600.2950a) & adds sec. 2950n.

Motion offered to oppose this proposal. Motion was supported and the motion carried.

HB 4998

HB 4998 (Heise) Civil procedure; evictions; court procedures; make miscellaneous revisions. Amends secs. 5732 & 5739 of 1961 PA 236 (MCL 600.5732 & 600.5739) & adds sec. 5736.

Motion offered to oppose this proposal. Motion was supported and the motion carried.

HB 5052

HB 5052 (Shirkey) Civil procedure; evictions; persons entitled to appear in eviction proceedings; allow certain individuals to appear for landlord. Amends 1961 PA 236 (MCL 600.101 - 600.9947) by adding sec. 916a.

Motion offered to oppose this proposal. Motion was supported and the motion carried.

Discussion

Judicial Resources Recommendation Report from State Court Administrative Office (SCAO)

The SCAO issues a Judicial Resources Report every two years. The report includes recommendation to the legislature on statutory ways to meet judicial resources around the state. This year's report included a recommendation to phase out 49 judgeships through attrition and the addition of 31 judgeships. These recommendations are endorsed by all three major judicial associations and supported by the Court.

Motion offered to endorse this report. Motion was supported and the motion carried.

LEADERSHIP REPORTS

President's Report, Julie I. Fershtman, President

Ms. Fershtman recommended that the Board approve the nomination of another former State Bar President, Julia Darlow for the ABA Margaret Brent Women Lawyers of Achievement Awards. Upon motion made and supported, the Board approved a resolution to that effect.

Ms. Fershtman informed the Board about a blog she has developed to keep members informed on her activities.

Ms. Fershtman informed the Board about the first meetings of the new Practice Management Resource Center Advisory Committee.

Ms. Fershtman recognized Janet Welch as being selected as the Michigan Lawyers Weekly Woman of the Year.

Ms. Fershtman reminded the Board members that if they have not made their ATJ Fund donation that they should do so by year end to achieve 100% participation from Board. She also indicated that any Board member can donate their mileage expense to the ATJ.

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

Ms. Welch informed the Board that the Court closed administrative files on the following three matters: 1) a cap on referral fees; 2) wholesale changes to the Rules of Professional conduct; and 3) the Representative Assembly recommendation for clarification and strengthening of the ethical rule concerning pro bono. She also noted that the advertising rule matter is up before the Court next week and she would inform the Board of the status of that matter at the January meeting.

Representative Assembly Report(RA), Stephen J. Gobbo, Chairperson

Mr. Gobbo provided the Board with information concerning the activities of the officers of the RA and what is potentially on the agenda for the April 21, 2012 RA meeting.

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

There was not a report.

Young Lawyers Section Report (YLS), Brandy Y. Robinson, Chairperson

Ms. Robinson provided the Board with an update of the YLS.

SBM Portal Training

Ms. Bossenbery provided the Board with a hands-on overview of the SBM Portal. Board members were shown how to access the SBM Portal, change or determine their passwords, and review the Board and commissioner committee pages and materials.

Adjournment

The meeting was adjourned at 2:30 p.m.