



**MINUTES
BOARD OF GOVERNORS MEETING
Las Vegas, NV
April 18, 2018**

A meeting of the Board of Governors of the State Bar of Nevada was convened on April 18, 2018.

The following members were in attendance:

Gene Leverty, President
Richard Pocker, President-Elect
Paul Matteoni, Vice President
Bryan Scott, Immediate Past President, 4/17/18
Jeff Albregts
Paola Armeni
Julie Cavanaugh Bill
Doug Clark
Eric Dobberstein
Richard Dreitzer
Jack Howard
Cathy Mazzeo
Ann Morgan
Ryan Russell
Kari Stephens
Ryan Works

State Bar staff present:

Kimberly Farmer
Gale Skala
Lisa Dreitzer
Shelley Young
Marc Mersol
Stan Hunteerton

Guest

Scott Lachman

CALL TO ORDER

President Gene Leverty called the meeting to order with a quorum present at 9:05 am.

PRESIDENT'S REPORT

Gene Leverty gave an overview of the meeting with Chief Justice Douglas. Among the topics discussed:

- Mandatory Malpractice Insurance
- Recent attacks on Unified Bars
- Update on the status of Corporate Counsel
- Reciprocity

Mr. Leverty presented a synopsis of his recent trip to Washington for ABA Day in Washington and the Western States Bar Conference (WSBC) in Santa Barbara. Mr. Leverty noted that members of the WSBC are facing the same issues that Nevada is concerned about; however, the views and solutions vary among the different state bars.

Mr. Leverty spoke about his concerns regarding the Unauthorized Practice of Law. Mr. Leverty appointed Eric Dobberstein to chair a UPL Taskforce with members of the taskforce to include Paola Armeni, Jeff Albregts and Cathy Mazzeo.

CONSENT AGENDA

Approved: Minutes for January 25, 2018.

Approved Attorney Resignation

William M. Burd
David S. Cohen
George B. Deuel
Alan B. Dixon
Patricia Doninger
Michael J. Emling
Bret W. Eubank
David Otto
Sherri Rollison
Robert D. Spitzer
Jarold M. Young

Approved Contracts

- AV Contract/ The Drake
- Pitney Bowes

Approved

Standing Committee on Ethics and Professional Responsibility-Draft Ethics Opinion

Approved

Board proclamation for Connie Hebert, outgoing Paralegal Division Chair.

DISCUSSION

- Challenges to Unified Bars

Gene Leverty reviewed several issues affecting mandatory and unified bars across the country.

- ABA Representative

Rew Goodenow has been elected to the ABA Board of Governors. Mr. Goodenow suggests that he resign from the State Delegate position thus creating an open position.

It was moved, seconded and carried to appoint Dan Polsenberg for a two-year term commencing August 2018 as the State Delegate. The state bar will advertise the open position in the House of Delegates created by Mr. Polsenberg's appointment electing the appointee at the July Board of Governors meeting.

REPORTS

○ Discipline Report

Stan Hunterton reviewed the latest statistics of the Office of Bar Counsel (OBC). Mr. Hunterton reported OBC is currently researching the process used by other states regarding publicizing discipline matters and fees owed by attorneys. The Board asked the OBC to obtain bids from at least three collection agencies in attempt to find a solution regarding restitution for clients.

A taskforce was appointed to study discipline models in other jurisdictions. Members of the taskforce are Paola Armeni, Eric Dobberstein, Kari Stephens, Cathi Mazzeo, Jeff Albregts and Julie Cavanaugh-Bill.

○ Young Lawyers Section Report

Scott Lachman presented an overview of the latest events of the Young Lawyers Section (YLS). Mr. Lachman noted that YLS would be seeking additional funding for the ABA House of Delegate Representative and the Young Lawyers Division District Representative. Mr. Lachman gave a synopsis on the upcoming Trial Academy at the Annual Convention in Chicago.

ACTION ITEMS

○ February 2018 Financials

Marc Mersol reviewed the financial operations as of February 28, 2018. It was moved, seconded and carried to accept the February 28, 2018 Financial Operations report.

○ Auditor, 2017 Audit

The State Bar had reached its maximum audit years with Barnard Vogler. Marc Mersol presented the proposals of three CPA firms who responded to the RFP package from the State Bar of Nevada.

It was moved, seconded and carried to approve the recommendation of the Audit Committee by accepting the proposal of Daniel C. McArthur, Ltd.

○ Database

Marc Mersol presented a synopsis and history of the State Bar's current database and the continued issues with this database. He recommended replacement of our current provider, opting out of the last year of the contract. In seeking a new provider, the objective is to merge databases for membership, admissions, LRIS and CLE to single database. It was moved, seconded and carried to end the agreement with the Bar's current database provider one year earlier than contracted and to seek RFPs for a new provider.

○ 3100 West Charleston Landlord

Kim Farmer reported on the leasing activity of Suites 210 and 204. The lease term for Suite 204 ends November 30, 2018. The tenant requested consideration of full satisfaction of the lease terms upon payment of 3 month's rent, through July 2018 (\$12,031). The remainder due on the lease after July is \$16,040. The tenant moved out of suite 204 on April 9. Our property manager proposes we counter this offer with payment of rent through August 2018 and hold the security deposit (\$20,852). The potential loss with this counter offer is \$7,738.

It was moved, seconded and carried to approve the proposed counter of \$20,852 (rent through August 2018 and security deposit).

Gene Leverty reported on the recent discussion concerning the Reno office and possibly relocating. A taskforce was appointed to research the Reno real estate market and uses of the Reno office. Members of the taskforce are Paul

Matteoni, Doug Clark and Ryan Russell.

- Supplement ADKT 0533 Trust Accounts

Gene Leverty and Kim Farmer gave an overview of the discussion that took place at the public hearing on ADKT 0533 amending Supreme Court Rule 78.5 pertaining to random trust account compliance audits. During this hearing the Court had some questions. Thus, a supplement to ADKT was prepared to address the questions. It was moved, seconded and carried to approve the supplement to ADKT 0533 with changes as noted. Ms. Farmer noted that the purpose of the audits is mostly for education and that staff will proceed to develop guidelines for trust account management. Gene Leverty appointed a taskforce to develop trust account guidelines. Members of the taskforce are Richard Dreitzer, Paola Armeni and Jeff Albregts.

- Lawyer Advertising Rule Revisions

Lisa Dreitzer presented an overview of the proposed changes for Lawyer Advertising Advisory Committee Rules of Procedure. On March 9, 2018 the Supreme Court signed an Order Amending Nevada Rules of Professional Conduct 7.1 and 7.2 regarding lawyer advertising. In accordance with this Order, below are amendments to the Lawyer Advertising Advisory Committee Rules of Procedure.

- Implement a filing fee filing for advertisements.
With the Board's approval, there will be a \$100/per advertisement filing fee effective May 1, 2018. The implementation of the filing fee estimated to generate an additional \$30,000 in revenue by the end of 2018. This estimate based on approximately 300 ads filed May 1, 2018 through December 31, 2018.
- Update the structure of the Advertising Advisory Committee.
The Northern and Southern Advertising Committees will be joined to create one committee. The committee structure will be modified to include 11 members (4 northern members, 4 southern members and 3 optional members, lay members or other members). Several Committee member terms end July 2018. To allow time for current Committee members to reapply and to accept applications from the membership at large, Committee applications will be submitted to the Board for review and appointment at the July 2018 Board meeting.

It was moved, seconded and carried to approve the rule changes of the Lawyer Advertising Advisory Committee Rules of Procedure.

APPOINTMENTS

- *Fee Dispute Arbitration Committee*

Approved the following volunteers for a three-year period beginning April 2018

John Boyden
Thomas Donaldson
Nancy Gabriel
Bill Hammer
Jennifer Mahe
John Naylor
Peter Ossowski
B. Alexandra Smith

Approved the following officers for a one-year term beginning April 2018

LVB Regional Chair – Brandon McCoy
LVC Regional Chair – Ara Shirinian

- *Nevada Lawyer Editorial Board*

Approved the following for a three-year re-appointment beginning July 2018

Nancy Harkess
Greg Shannon

Approved the following officers for a one-year term beginning July 2018

Chair – Laury Macauley
Chair-Elect – Kristen Simmons
Vice-Chair- Chad Olsen
Immediate Past Chair – Leon Mead

○ *Section Appointments*

Approved: Elder Law Section the following slate of officers appointed for a one-year term ending March 2019:
Chair: Daniel Goodsell
Vice Chair: Cary Payne
Treasurer: Keith J. Tierney
Secretary: Gloria M. Petroni

Approved Administrative Law Section the following slate of officers appointed for a one-year term ending April 2019:
Vice Chair: Sarah Bradley
Treasurer: Lyn Beggs
Secretary: Katie Hoffman

Approved Paralegal Division the following officer appointed for a one-year term ending March 2019:
Chair: Daniel Maul

○ *Workers' Compensation Specialization Board*

Approved beginning April 2018:
James Kemp- 2 year-term
Craig Kidwell- 2 year-term
Timothy Row- 3 year-term
Erica Tosh- 2 year-term

TASKFORCE REPORTS

○ Reciprocity Taskforce

Ann Morgan presented a detailed report on the matrix the Reciprocity Taskforce prepared showing all exemptions and the criteria for those practicing under the limited practice rules.

○ Mandatory Malpractice Taskforce

Gene Leverty presented a review of the recent activities of the Mandatory Malpractice Insurance Taskforce. The taskforce is researching and discussing whether a bond should be required of attorneys dealing with probate and trust matters.

EXECUTIVE SESSION

The Board entered Executive Session at 1:45 pm and concluded at 2:45 pm.

ADJOURN

There being no further business before the Board, the meeting was adjourned at 2:45 pm.

VIA EMAIL VOTE: May 10, 2018

It was moved, seconded and carried to approve a proclamation honoring Brett Kandt in recognition of his service as the Chair of the Public Lawyers Section the past 14 years.

VIA EMAIL VOTE: May 21, 2018

The Intellectual Property Law Section sought permission from the Board of Governors to submit a written comment in the U.S. Patent & Trademark Office regarding changes to Patent Application Examination Procedures pertaining to Patent Subject Matter Eligibility. It was moved, seconded and carried to approve the IP section to move forward with drafting written comment in the U.S. Patent & Trademark Office regarding changes to Patent Application Examination

Procedures pertaining to Patent Subject Matter Eligibility.

VIA EXECUTIVE COMMITTEE VOTE: May 24, 2018

It was moved, seconded and carried to approve the request by the Litigation Section to file an amicus brief. The brief will be filed solely on behalf of the Litigation Section. The brief discusses the questions:

- Under What Circumstances Is the Attorney-Client Relationship Formed?
- Under What Circumstances Can Confidential Information Remain Confidential according to the Common Interest Rule?
- Under What Circumstances Can Confidential Information Lose Its Confidential Status by Waiver?

The section will include notice in the brief that the content, opinions, and representations set forth in the brief do not reflect the position of the State Bar of Nevada and that the State Bar of Nevada is not responsible for the preparation or filing of this pleading.

VIA EMAIL VOTE, May 29, 2018

It was moved, seconded and carried to approve the Hotel Talisa contract for the 2019 Annual Convention in Vail, Colorado.