

**MEETING OF THE
BOARD OF GOVERNORS
OF THE
STATE BAR OF ARIZONA**

September 23, 2022

BOARD MEMBERS PRESENT: Jessica Sanchez, President, Mesa; Benjamin Taylor, President-Elect, Phoenix; Ted Schmidt, Vice President, Tucson; Sam Saks, Secretary/Treasurer, Tempe; Diandra Benally, Fountain Hills; Sandra Bensley, Tucson; YLD President Nicholas Brown, Phoenix; Jenna Decker-Xu, Phoenix; Denis Fitzgibbons, Casa Grande; Sharon Flack, Prescott; Kelsi Lane, Phoenix; Leticia Marquez, Tucson; Robert McWhirter, Phoenix; John Moody, Phoenix; Preston Pollock, Payson; Jennifer Rebholz, Board Advisor, Phoenix; David Rosenbaum, Phoenix; Eric Ruchensky, Flagstaff; D. Christopher Russell, Sierra Vista; Public Governors Robyn Austin, Tucson, Cedric Dave, Chandler, and Mignonne Hollis, Sierra Vista; At-Large Governors Mike Baumstark, Scottsdale; Dave Byers, Phoenix, and Doreen McPaul, Window Rock; Ex-Officio Governor Dean Marc Miller, UA Law School.

EXCUSED ABSENCE: Jimmie Dee Smith, Yuma

UNEXCUSED ABSENCE: Public Governor Jonathan Martone, Paradise Valley

STAFF: Deanna Commack, Executive Assistant; Joel England, CEO/Executive Director; Joe Hengemuehler, Chief Communications Officer; Lori Maxwell, Chief Information Officer; Rick Palmatier, Deputy General Counsel; Carrie Sherman, Director of Board Operations; Roberta Tepper, Chief Member Services Officer.

GUESTS: Hon. William Montgomery, Arizona Supreme Court Liaison; Victoria Ames, ASU College of Law Liaison; Leah Won, UA College of Law Liaison; Attorney Michael Simes.

President Jessica Sanchez called the Board meeting to order at 8:32 a.m.

Call to the Public – Jessica Sanchez

President Sanchez made a Call to the Public and hearing nothing, moved on to the next item on the agenda.

President's Report – Jessica Sanchez

- Recognized Board members' September birthdays and those present joined in singing "Happy Birthday"
- Board members who were unable attend the Board Retreat were asked to introduce themselves since there are new Board members and share what song brings them joy; a playlist will be circulated to the Board and staff
- Attended:
 - Court's Western Regional Summit in Lake Tahoe; focus was on implementing technology; great networking opportunity with court officials including the chief justice

- BLI kickoff retreat in Tubac Sept. 10 weekend; this is the 15th class; the BLI class will also be in the building when the Board meets on January 20; the BLI session that day will cover everything about the Bar; a Board/BLI meet and greet is being planned in conjunction with the Board meeting; Board members encouraged to attend in person
- Judge Learned Hand Award Luncheon last Friday; former Chief Justice Scott Bales received the Public Service Award
- Restarting the annual Board/staff meet and greet – in conjunction with the October 21 Board meeting; Board members encouraged to be attend in person
- Great meeting with staff to discuss CLE faculty. Since 2023 Convention theme is about bringing us all together, making some targeted efforts to recruit additional CLE faculty to reflect entire membership. Board members, especially outside of Maricopa County, will be asked to help recruit CLE speakers.
- CLE “Progressing Beyond Bias”; as part of the State Bar’s commitment to these principles, this one-hour seminar is offered for free until December 31.
- Informed that members of the public were unable to log into the meeting and address the Board; asked that they be invited to join at 9:50 a.m.

CEO’s Report – Joel England

- Attended the same events as President Sanchez
- Internal budget meetings are underway
- Continuing to meet with law firm leaders to get feedback on how the Bar can continue to be relevant and valuable across the membership; positive input thus far with no criticism about the organization
- Hosted a judicial delegation from Kazakhstan on September 14th; educated them about the State Bar and what it does, and how its work affects judges; they were very engaged
- Annual Bar clean-up day reinstated on August 31; office closed while staff cleaned/straightened up all personal/common areas

ABA House of Delegates – Jessica Sanchez

Lori Higuera joined the meeting.

- Provided recap of action taken on proposed Resolutions at the Annual Delegates meeting in August in Chicago
- Delegates/staff meet in advance of the meeting to determine which Resolutions are *Keller* prohibitive that Delegates are prohibited to vote on
 - One Resolution was introduced after that meeting and two days before the Delegates meeting; no time for Bar guidance
 - Arizona Delegates asked to support Resolution 402 (fee sharing with non-lawyers) which was *Keller* permissible but contrary to Arizona Supreme Court’s decision
 - Is a policy warranted in such circumstances when guidance cannot be received before voting?
 - AGREED: Topic for a future Executive Council meeting agenda
- President Sanchez presented Ms. Higuera with a memento for her four years of service as a State Bar Delegate in the ABA HOD. The Board thanked her for her service to the Bar and legal community.

Appointments Committee – Ted Schmidt

- City of Mesa Judicial Advisory Board (JAB)
 - One JAB opening; Mesa City Council requests three nominations
 - Two candidates recommended from three applications received
 - **MOTION:** John Moody moved, Mike Baumstark seconded and the motion carried unanimously to nominate to the Mesa City Council the following qualified candidates as ranked for the one JAB position: Mr. Keith Berkshire, Berkshire Law Office PLLC, and Ms. Aimee Marie Costa, Attorney at Law
- Client Protection Fund Board of Trustees
 - One opening; may not reside in Maricopa County
 - Two qualified candidates; one ranked as top candidate
 - **MOTION:** Ted Schmidt moved, Sharon Flack seconded and the motion carried unanimously to appoint Cliff Hill, The Law Office of Cliff Hill PLLC, Yavapai County, to the CPF Board.
- Committee on Character and Fitness – Public Members
 - Four openings; Court requests three nominations per opening; two applications received; Appointments Committee willing to perform ongoing recruitment should the Court request such action
 - Two qualified candidates; one ranked as top candidate
 - **MOTION:** Ted Schmidt moved, John Moody seconded and the motion carried unanimously to nominate to the Court the following candidates as ranked: Dr. Edward L. James, III and Ms. Regina Ponder
- Committee on Character and Fitness – Lawyer Member
 - One opening; Court requests three nominations per opening
 - **MOTION:** Ted Schmidt moved, John Moody seconded and the motion carried unanimously to nominate to the Court the following candidates as ranked: Ms. Kate VanderBaan, VB Law, LLC; Hon. Irene Feldman, U.S. DOJ/Immigration Court; Ms. Julia Alexa Rogers, Marble Law
- Committee on Examinations – Lawyer Member
 - One opening; Court requests three nominations per opening
 - **MOTION:** John Moody moved, Ted Schmidt seconded and the motion carried unanimously to nominate to the Court the following candidates as ranked: Hon. Irene Feldman, U.S. DOJ/Immigration Court and Ms. Kate VanderBaan, VB Law LLC (tied for #1 ranking); Ms. RoseMarie Horvath, City of Phoenix Law Department
- Mr. Schmidt reviewed the upcoming volunteer positions to be addressed by the Appointments Committee: ABA Delegate, Arizona Commission on Judicial Conduct and DNA-People’s Legal Services, Inc. Board of Directors. Board members were asked to reach out to qualified candidates they know and encourage them to apply.

Proposed Amendments to SBA Bylaws – Ted Schmidt

- Then President Jennifer Rebholz appointed a Bylaws Review Working Group to review the bylaws and propose changes; the bylaws are to be reviewed every three years
- Pursuant to the bylaws, a 30-day notice was given at the August 19 Board meeting that proposed amendments to the SBA bylaws would be voted on today

- The Executive Council supports the proposed amendments; minor language modifications were made for clarification purposes; major change to Bylaw 9.09: “Participation and voting remotely shall be permitted at any meeting of the Board designated as a virtual or hybrid meeting by the president, or with consent of the president.” (“Teleconferencing” previously prohibited and this bylaw was suspended due to the pandemic.)
- **MOTION:** Ted Schmidt moved, John Moody seconded and the motion carried unanimously to approve the proposed amendments to the State Bar of Arizona bylaws.

Finance and Audit Committee – Kelsi Lane, Kathy Gerhart

- 2023 Budget Guidelines Memorandum
 - Memorandum provides the staff guidance on the preparation of the budget; points within Memo were noted
 - FAC reviewed the memo and voted unanimously to approve it and submit it to the Executive Council for its consideration
 - Council supports budget guidelines as presented
- **MOTION:** Kelsi Lane moved, Bob McWhirter seconded and the motion carried unanimously to approve the 2023 Budget Guidelines Memorandum as presented.
- 2021 State Bar/CPF Audit was reviewed; clean audit; kudos to Bar’s Finance and Accounting staff for their exceptional efforts

Requested Advocacy re: Judicial Security – Joel England

- Request is to ask Arizona’s congressional members to support H.R. 4436, the Daniel Anderl Judicial Security and Privacy Act of 2021
 - Bill prohibits federal agencies and private businesses from publicly posting judges’ and their families’ personally identifiable information
 - Bill would mitigate safety concerns and enhance security for federal judges and protects the independence of the courts
- General Counsel Lisa Panahi’s opinion: support of this legislation is *Keller* permissible
- Executive Council supports the request to advocate for Bill’s passage
- Concern regarding lack of Arizona’s congressional members supporting the Bill (yet); as judicial security is a bipartisan issue, the Bar’s lobbyist does not anticipate any repercussions for the Bar in requesting support for its passage.
- **MOTION:** Ted Schmidt moved, John Moody seconded and the motion carried over one abstention to authorize the president to write Arizona Congressional Representative urging them to support H.R. 4436, the Daniel Anderl Judicial Security and Privacy Act of 2021.

Consent Agenda – Jessica Sanchez

President Sanchez asked if there were any matters that needed to be removed from the Consent Agenda and hearing nothing,

- **MOTION:** John Moody moved, Ted Schmidt seconded, and the motion carried unanimously to approve the Consent Agenda:
 - a) Approval of August 19, 2022 Board Meeting Minutes
 - b) Approval of Resignations in Good Standing
 - c) Approval of Reinstatement of Member(s) Suspended for Non-Compliance with Annual Membership Fees and/or Trust Account Compliance (Rule 32(c)(10) and/or Rule 43, Ariz. R. Sup. Ct.)

- d) Approval of Reinstatements of Members Suspended for Non-Compliance with MCLE Requirements (Rule 45, Ariz. R. Sup. Ct.)

Information

- President Sanchez directed the Board members to the Executive Council meeting minutes in their materials, and also to the letter recognizing and thanking Adam Zickerman for serving as a State Bar Delegate in the ABA House of Delegates for 10 years; memento shipped to him in Flagstaff.
- Jennifer Rebholz noted passage of “no knock” legislation, showcasing Arizona in a positive light
- Dave Byers reported that bills signed by the Governor go into effect September 24, including:
 - Jurors will be paid full wages for service should their employers not do so
 - Spousal maintenance: how it is to be awarded; is the Bar’s Family Law Section aware?
 - Crime victims: at the time of sentencing victims can request lifetime injunction from harassment by guilty individual(s)
- CCO Joe Hengemuehler reported on media buys for 4th quarter
 - \$1,200: 15-second spots about the Bar; 144 Harkins Theaters screens statewide; Bar also featured in lobby kiosks
 - ABC15 digital advertisements plus President Sanchez will appear on *Sonoran Living* to inform the public about the Bar’s services
- Public members wishing to address the Board were not present

Adjournment: 9:58 a.m.

Respectfully submitted,

Sam Saks
Secretary/Treasurer