

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

December 1, 2023

BOARD MEMBERS PRESENT: Benjamin Taylor, President, Phoenix; Sam Saks, Vice President, Tempe; Doreen McPaul, Secretary/Treasurer, Gilbert; Robyn Austin, Tucson; Heather Baker-Mushkatel, Phoenix; Sandra Bensley, Tucson; Cedric Dave, Chandler; Jena Decker-Xu, Phoenix; Denis Fitzgibbons, Casa Grande; David Johns, Flagstaff; Kelsi Lane, Tempe; Leticia Marquez, Tucson; Robert McWhirter, Phoenix; John Moody, Phoenix; Preston Pollock, Globe; David Rosenbaum, Phoenix; Christopher Russell, Sierra Vista; Jessica Sanchez, Board Advisor, Mesa; Elizabeth Schmitt, YLD President, Phoenix; Jimmie Smith, Yuma; Henry Whitmer, Prescott; Public Governors Robyn Austin, Tucson, Cedric Dave, Chandler, Mignonne Hollis, Sierra Vista, Cortez Smith, Casa Grande; At-Large Governors, Mike Baumstark, Scottsdale, and Marcus Reinkensmeyer, Phoenix.

BOARD MEMBERS WITH EXCUSED ABSENCES: Ted Schmidt, President-Elect, Tucson; Diandra Benally, Fountain Hills.

STAFF: Noah Coakley, Chief of Staff/DEI Director; Joel England, CEO/Executive Director; Kathy Gerhart, Chief Financial Officer; Joe Hengemuehler, Chief Communications Officer; Jessica Iennarella, Deputy CFO; Lori Maxwell, Chief Information Officer; Trish McCarty, HR Director; Darla Neill, Board Administrative Assistant; Lisa Panahi, General Counsel; Amy Rehm, Deputy Chief Bar Counsel; Carrie Sherman, Director of Board Operations; Roberta Tepper, Chief Member Services Officer; Maret Vessella, Chief Bar Counsel.

GUESTS: Victoria Ames, ASU College of Law; Judge David Allen, Mesa Municipal Court; Matthew Brian Adler and his parents, Patrick and Mary Adler; attorney Lillian Harris; Nancy Greenlee, Lawyer Support Network; Hon. William Montgomery, Arizona Supreme Court Liaison; Leah Won, UA College of Law.

Call to Order – Benjamin Taylor

President Taylor called the meeting to order at 8:36. He announced that Retired U.S. Supreme Court Justice Sandra Day O'Connor passed away that morning. Those present paused for a moment of silence and reflection.

Call to the Public – Benjamin Taylor

President Taylor made a Call to the Public at which time Judge David Allen, City of Mesa was recognized. Judge Allen respectfully requested that the Board consider changing its internal policy that only “Active” members are eligible to apply for many of the volunteers’ positions for which the Bar recruits. He suggested changing “active only” to “members in good standing” regarding a candidate’s eligibility. He indicated that the judiciary wants to be engaged and are encouraged to do so. Regarding whether this change would create a “judges’ takeover,” Judge Allen said that is not the intent; they just want to be more active in law-related activities. CEO Joel England reminded the Board that judges still must meet other criteria in relation to the volunteer positions being

advertised. Mr. England advised that Judge Allen's recommendation will be on the January Executive Council agenda.

President's Report – Benjamin Taylor

- President Taylor publicly thanked Anna Thomasson, former Public Governor, for once again hosting the Board's annual holiday reception.
- President Taylor recognized Mr. Matthew Brian Adler, who received the highest score on the 2023 July Uniform Bar Exam and awarded him with a plaque. Mr. Adler thanked the Board for the award. He is an Arizona native, ASU Law School graduate and clerks for Arizona Supreme Court Justice John Lopez.
- President Taylor taped a segment of ABC15's Sonoran Living, which he says has received positive reaction and feedback from the legal community.
- The discipline system survey has been circulated and President Taylor asked that everyone encourage their colleagues to respond to it.
- Attended:
 - BLI reception where former DEI Director Elena Nethers was recognized and thanked for her years of service prior to her retirement.
 - Quarterly Town Hall meeting where he thanked the State Bar staff for their service to the legal and greater community.
 - Judge Andrew Jacobs' Investiture on November 17th.

CEO/ED's Report – Joel England

- CEO England recognized CFO Kathy Gerhart and advised that this is her last Board meeting as she is retiring. He publicly thanked her and acknowledged that the Board owes her a huge debt of gratitude.
 - Ms. Gerhart thanked him and expressed her pleasure for working at the Bar for 10+ years. She then introduced her successor, Jessica Iennarella, who brings a wealth of skills, assets, and experience to the job.
- CEO England also recognized Mona Fontes as the Employee of Q3. Ms. Fontes was previously the Bar's MCLE guru and is now the Sections and Online Communities Administrator.
- Attended:
 - Judicial and Attorney Engagement Committee meetings
 - Pima County Bar Association events
 - networking event on October 24
 - YLD Judicial Reception November 15
 - Met with AG Kris Mayes on November 3; discussed public lawyers' engagement with the Bar and how to improve it
 - Invited, along with Chief Member Services Officer Roberta Tepper, by Secretary-Treasurer Doreen McPaul to present on lawyer wellness issues at a Tribal In-House Counsel Association Conference in Michigan November 9-10
 - BLI Reception on November 16 where Elena Nethers was honored for her 10+ years of service to the Bar. At the event introduced Noah Coakley, Ms. Nethers' successor as the Bar's DEI Director and its new Chief of Staff. Standing up an internal Employee Retention Working Group which Mr. Coakley will chair. Mr.

Coakley previously worked for the Department of Justice as an Assistant U.S. Attorney and in their Civil Rights Division and is a reserve attorney in the Air Force JAG Corps..

- Mr. Coakley reported on DEI issues including:
 - The discipline process discovery survey has launched and will be open for four weeks; it's anonymous; initial results should be available late February with the final report due in May
 - Ongoing discussion with Amanda Parker, PhD, at the New Mexico State Bar regarding various initiatives
- Judge Jacobs' appellate court investiture on November 17th
- CLE – “2023 Arizona Supreme Court Review” this past Wednesday where the organization was honored to have all of the Justices in attendance and present.

Appointments Committee - Sam Saks

- Arizona Commission on Judicial Conduct
 - The Appointments Committee received 26 applications for one position on the Commission on Judicial Conduct. The following six top vote-getters were recommended to the Board:
 - Ms. Regina L. Nassen, Tucson City Attorney's Office - 11 votes
 - Mr. Barney M. Holtzman, Mesch Clark Rothschild - 7 votes
 - Mr. Mark D. Rubin, Rubin & Bernstein PLLC - 7 votes
 - Ms. Frances Sjoberg, Navajo Nation Department of Justice - 7 votes
 - Mr. David A. Black, Law Offices of David A. Black - 6 votes
 - Mr. David L. Sandweiss, State Bar of Arizona - 6 votes

MOTION: Sam Saks moved, Mignon Hollis seconded and the motion to appoint Regina Nassen to the Commission on Judicial Conduct carried unanimously.

- City of Phoenix Judicial Selection Advisory Board
 - The Committee received five applications and recommended the following ranked slate for the Board's consideration in making its three nominations to the Phoenix City Council for its consideration and ultimate appointment:
 - Ms. Frances Sjoberg, Navajo Nation Department of Justice - 10 votes
 - Mr. Andrew Jon Hagler, Attorney at Law - 9 votes
 - Mr. Omer Ramiro Gurion, Gurion Legal - 6 votes

MOTION: Sam Saks moved, Mignon Hollis seconded and the motion to submit the three nominations to the Phoenix City Council for its ultimate appointment of a State Bar representative to the JSAB carried unanimously.

Special Constitutional Appointments Committee - Sam Saks

The Committee submitted the following candidates to the Board for its recommendation to the Governor:

- Arizona Commission on Appellate Court Appointments – one non-Maricopa County seat

<u>APPLICANT</u>	<u>COUNTY</u>	<u>POLITICAL PARTY</u>
Mr. Samuel E. Vederman, Vederman Law Office PLLC	Mohave	Republican
Hon. (ret.) Mark R. Moran, Attorney at Law	Coconino	Democrat
Ms. Kathryn Marie Martin, Attorney at Law	Pima	Democrat
Mr. Shawn David Garner, Deason Garner & Hanson	Yuma	Republican

- Maricopa County Commission on Trial Court Appointments
 - **Supervisory District 4**
Mr. David M. Heller, Law Office of David M. Heller PC; Independent
 - **Supervisory District 5**
Mr. Andrew Hagler, Attorney at Law; No Party Preference
- Pima County Commission on Trial Court Appointments
 - **Supervisory District 2**
Mr. Joshua F. Hamilton, Hernandez & Hamilton PC; Democrat
- Pinal County Commission on Trial Court Appointments
 - **Supervisory District 3**
Ms. Joan M. Bundy, Joan Bundy Law PLC; Democrat

MOTION: Sam Saks moved, Cedric Dave seconded, and the motion carried unanimously to submit these nominations on to Governor Hobbs for her ultimate appointment.

- CEO England informed the Board that there were not many applicants for these positions and in fact one was left open because the sole candidate was disqualified. He urged Board members to reach out to prospective applicants and encourage them to apply. The Governor wants choices.

Appointments to the Arizona Foundation for Legal Services & Education Board of Directors

– Benjamin Taylor

- The Board of Governors makes six appointments to the Foundation’s Board
- Judge Brian Furuya’s and Kelsi Lane’s three-year terms expire at year-end and they wish to continue their service.
- There were no other expressions of interest or nominations from the floor.

MOTION: Cortez Smith moved, Mignonne Hollis seconded and the motion to re-appoint Judge Brian Furuya and Kelsi Lane to another three-year term on the Foundation Board carried unanimously.

Mark Harrison Memorial 10-Minute Topics - Bob McWhirter

- Bob McWhirter gave a presentation entitled *Molasses and the Sticky Origins of the Fourth Amendment*.

Finance and Audit Committee - Doreen McPaul

- President Taylor expressed kudos to the Finance Department and Bar staff on the Bar's budget. This is a huge project that starts in August.
- Operating and capital budgets have been signed off on by the F&A Committee and the Executive Council and are presented for the Board's ultimate approval today.
- 2024 Budget
 - Budgeted surplus of \$462K excluding section activity.
 - Revenue is \$18,488K excluding section activity – 2.1% increase over 2023's budget & 1.7% increase over 2023's projected actuals.
 - Expenses are \$18,026K excluding section activity – 1.7% increase over 2023's budget & 5.7% increase over 2023's projected actuals.
 - Section activity is net deficit of \$177K.
 - Net budgeted surplus is \$286K.

MOTION: Doreen McPaul moved, Bob McWhirter seconded and the motion to approve the 2024 Budget carried unanimously.

- Capital Budget
 - Capital budget for 2024 is higher than normal range, but 2025's budget has been trimmed to bring the two years on average in line with goal.
 - Three significant projects in 2024 which need to be completed in 2024, including case management software replacement.

MOTION: Jessica Sanchez moved, Kelsi Lane seconded and the motion to approve the Capital Budget for 2024-2028 carried unanimously.

- JustWare Replacement Software – Contract Approval
 - CEO England gave context for the need for replacement software as the JustWare vendor ended support and retired the product. CIO Lori Maxwell spoke regarding security issues. Deputy CBC Amy Rehm commented that the majority of State Bars that used Justware have moved to eProsecutor software.

MOTION: Doreen McPaul moved, Kelsi Lane seconded and the motion to approve the eProsecutor software contract carried unanimously.

- Status/informational reports were provided on the following:
 - State Bar of Arizona Q3 2023 Financial Reports
 - State Bar of Arizona Q3 2023 Financial Dashboard
 - Client Protection Fund Q3 2023 Financial Statements

Strategic Planning Working Group - Kelsi Lane

- 2024-2026 Strategic Plan (Refresh)
 - A redlined version of proposed changes to the four overarching Strategic Priorities were provided to the Board in October. No comments were received.
 - There was discussion regarding how the Board can ensure action items are addressed and track where the Bar's and the Court's plans intersect.

MOTION: Kelsi Lane moved, David Johns seconded, and the motion carried unanimously to approve the changes indicated in the redlined version of the 2024-2026 Strategic Plan.

Lawyer Support Network - Joel England, Roberta Tepper, Nancy Greenlee

- The Lawyer Support Network had previously submitted a proposal which was considered by the Wellness Task Force.
- Nancy Greenlee with LSN presented a one-time grant request for \$6,000 for start-up funding: \$5,000 to pay a tax lawyer to obtain LSN's 501(c)(3) charitable foundation status and \$1,000 for a CPA to assist with the tax accounting issues.
 - Much discussion ensued regarding the amount of funds, whether the money can be obtained elsewhere, etc.

MOTION: Kelsi Lane moved, David Johns seconded and the motion to approve the one-time request for \$6,000 to assist the LSN with start-up costs carried by a vote of 19-3-1.

Consent Agenda - Benjamin Taylor

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

MOTION: Kelsi Lane moved, Jessica Sanchez seconded, and the motion carried unanimously to approve the Consent Agenda:

- Approval of October 20, 2023 Board Meeting Minutes
- Approval of Resignations in Good Standing
- Proposed Petition to Amend Rule 2, Ariz. R. Fam. L. P.
- Proposed Petition to Amend Rule 91, Ariz. R. Fam. L. P.
- Proposed Petition to Amend Rule 16(b) and (c), Ariz. R. Civ. P.
- Proposed Petition to Amend Rules 16(b) and 30(b), Ariz. R. Civ. P.
- Proposed Petition to Amend Rule 59(c), Ariz. R. Sup. Ct.

Following the vote, and after landing at the airport and logging into the meeting, David Rosenbaum raised an issue with the wording of the Proposed Petition to Amend Rule 16(b) and (c), Ariz. R. Civ. P.

MOTION: Bob McWhirter moved, Marcus Reinkensmeyer seconded and the motion to reopen this matter carried unanimously.

Mr. Rosenbaum proposed that for clarification purposes, the word "Proposed" (capital "P") throughout the Rule should be a lower case "p" ("proposed"). Discussion regarding the verbiage of the Petition ensued.

MOTION: David Johns moved, Sam Saks seconded and the motion to amend the Proposed Petition to Amend Rule 16(b) and (c), Ariz. R. Civ. P. as recommended by Mr. Rosenbaum carried unanimously.

General Counsel Lisa Panahi reported that all the proposed rule petitions presented to the Board that day need to be filed by close of business. She would make the approved amendment to the

Petition in question and circulate it to the Civil Practice and Procedure Committee as a courtesy and information.

Lawyer Wellness Services Update - Joel England

- CEO England advised that he and Dean Leeds will meet with the Court in two weeks to discuss the details of the Bar/ASU Legal Assistance Program for Judges, Lawyers, Paraprofessionals and Law Students which was approved by the Board in October. Specifically, the Court is to appoint Board members to the non-profit arm of the venture.

Convention Update

- Roberta Tepper advised that the sections and groups that provide programming are finalizing their proposals
- In the final stages of hiring a new Convention Coordinator
- Save the dates of June 12-14, 2024 for the Convention
- Currently there is no keynote speaker(s) scheduled; Board members were urged to send recommendations to staff
 - Marketing/sales team seeking larger money sponsorships to cover “big name” presenters

Correspondence/Reports

- October 3, 2023 Executive Council Minutes

President Taylor thanked the Board for their support and recognized what had been accomplished during the first part of this Bar year.

MOTION: President Taylor moved to adjourn the meeting, Cedric Dave seconded, and the motion carried unanimously to adjourn the meeting at 11:02 a.m.

Respectfully submitted,

Doreen McPaul
Secretary/Treasurer