

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

**June 15, 2021
Wild Horse Pass Grand Conference Center
Phoenix, AZ**

BOARD MEMBERS PRESENT: Denis M. Fitzgibbons, President, Casa Grande; Jennifer Rebholz, President-Elect, Phoenix; Jessica Sanchez, Vice President, Mesa; Benjamin Taylor, Secretary-Treasurer, Phoenix; Diandra Benally, Fountain Hills; Sandra Bensley, Tucson; Hector Figueroa, Payson; Sharon Flack, Prescott; Kelsi Lane, Phoenix; Leticia Marquez, Tucson; Robert McWhirter, Phoenix; John Moody, Phoenix; David Rosenbaum, Phoenix; Eric Ruchensky, Flagstaff; D. Christopher Russell, Sierra Vista; Samuel Saks, Phoenix; Ted Schmidt, Tucson; Jimmie Dee Smith, Yuma; Public Members: Robyn Austin, Tucson; Jonathan Martone, Paradise Valley; Anna Thomasson, Paradise Valley; and At-Large Members David Byers, Phoenix; Lori Higuera, Phoenix; Doreen McPaul, Window Rock; Ex-Officio member Jeffrey Willis, Acting Board Advisor; Dean Marc Miller, UA Law School, Tucson.

EXCUSED ABSENCES: John Gordon, Public Governor, Prescott

UNEXCUSED ABSENCES: Jena Decker-Xu, YLD President, Phoenix

STAFF PRESENT: Deanna Commack, Executive Assistant; Sarah Corpening, Membership Administrator & Services Manager; Tim Eigo, Editor; Joe Hengemuehler, Chief Communications Officer; Joel England, CEO/Executive Director; Kathy Gerhart, Chief Financial Officer; Lori Maxwell, Chief Information Officer; Kendra Owens-Johnson, Mentor Program Director; Lisa Panahi, General Counsel; Amy Rehm, Deputy Chief Bar Counsel; Carrie Sherman, Director of Board Operations; Karen Van Allen, Administrative Assistant; Maret Vessella, Chief Bar Counsel; and Rachel Williams, Human Resources Manager.

GUESTS: Hon. James Beene, Arizona Supreme Court Liaison; Ari Burshell; spouse of President-Elect Jennifer Rebholz; Hon. Brian Furuya, 2019-2020 State Bar President; Mignonne Hollis, Public Governor-Elect, Sierra Vista; Jim Penny, Chair, Client Protection Fund Board of Trustees; Gaya Shanmuganatha, YLD President-Elect.

President Denis Fitzgibbons called the Board meeting to order at 1:38 p.m.

Call to the Public – Denis Fitzgibbons

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

President's Report – Denis Fitzgibbons

- Hon. Brian Furuya's book is located on the front table; please remember to sign it.
- Spoke at this morning's breakfast honoring those who have been admitted to practice 50 years as of 2020 and 2021.

- Membership fees for retired members: Referred to the Finance and Audit Committee for further study; proposal/recommendation expected in the fall.

CEO's Report – Joel England

- Operating Posture: The building is now open to the public with about 60% of the staff present on any given day.
- Met with Jennifer Rebholz in preparation for her role as president for 2021-2022.
- Thanked Jeffrey Willis for serving as Board Advisor when Hon. Brian Furuya stepped down from the Board.

(Out of agenda order)

Nominating Committee – Election of Officers – Jeff Willis

- Serving on the Nominating Committee this year along with Chair Willis were Sandra Bensley, John Gordon and Lori Higuera.
- Recognized President-Elect Jennifer Rebholz who will automatically ascend, pursuant to Court Rule and bylaws, to the presidency at the conclusion of the Annual Meeting/Convention.
- President-Elect: One application received from Jessica Sanchez, currently serving as Vice President.
- Vice President: One application received from Benjamin Taylor, currently serving as Secretary/Treasurer.
- Secretary/Treasurer: Three applications were received.
- All five candidates were interviewed by the Committee.
- Following the interviews, two of the Secretary/Treasurer candidates withdrew from consideration.
- The Committee recommends the following slate of officers for 2021-2022:
 - President-Elect Jessica Sanchez
 - Vice President Benjamin Taylor
 - Secretary/Treasurer Ted Schmidt
- Asked for nominations from the floor. None received.
- The three candidates addressed the Board about their interest and qualifications in serving as officers.
- Discussion whether the slate could be passed by voice vote although the bylaws direct that the officers be elected by secret ballot.
- **MOTION:** Robert McWhirter moved, Doreen McPaul seconded and the motion carried unanimously to suspend that portion of the bylaws, for the purposes of this meeting only, to not require that the officers elections be conducted by secret ballot.
- **ACCLAMATION:** The Board unanimously approved the officers slate as presented.

20-minute break for photos of the 2021-2022 Board of Governors and Executive Council.

2019 Client Protection Fund Report – Jim Penny

- The Client Protection Fund was established by Rule 32 and is to protect the public from the dishonest conduct of lawyers (theft; failure to return unearned fees; etc.)
- There are five members on the Board of Trustees, appointed by the Board of Governors, who serve five-year terms. They can be reappointed and serve for a total of 10 years.
- Under the Declaration of Trust, the Board of Trustees are a separate entity from the State Bar.
- The Trustees meet quarterly to review/approve claims.
 - Do not consider malpractice or negligence claims
 - Aggregate: \$250K limit in claims against any one lawyer
 - \$100K maximum paid to any one claimant no matter the amount of money lost
- Restitution must be paid before an attorney can be readmitted to the Bar
- Trust recently amended by the Governors to include the new Legal Professionals.
- Claims: 2019 - \$346,293 paid; 2018 - \$547,907 paid.
- 2019 claims denied: 44; largest number were fee disputes.
- 2019: \$2.4M in assets; \$128K – administration costs; \$15K in restitution revenue received.
- Funds invested in CDARS (the certificate of deposit account registry service).
- President Fitzgibbons presented Mr. Penny with a memento for his 10 years of service as a Trustee, the last two as Board chair. The Governors added their thanks and appreciation.

Appointments Committee – Jessica Sanchez

- ABA Delegates
 - There are two openings; one must be filled by a young lawyer.
 - The Committee voted to recommend the reappointment of incumbents Judy Dávila (National Labor Relations Board, Phoenix) and Lynda Shely (The Shely Firm, Scottsdale) to two-year terms.
MOTION: Jennifer Rebholz moved, Robert McWhirter seconded and the motion carried unanimously to reappoint Judy Dávila (young lawyer representative) and Lynda Shely as State Bar ABA Delegates.
- City of Surprise Judicial Selection Advisory Commission
 - There is one opening; the Board is asked to submit three names for consideration.
 - Two qualified candidates submitted an application.
 - The Committee recommended sending both names in ranked order: Lisa Maxi-Mullins (Legal Services Department, City of Goodyear) and Jose Valles (Prosecutor's Office, Fort McDowell Yavapai Nation).
MOTION: Jennifer Rebholz moved, Doreen McPaul seconded and the motion carried unanimously to nominate Ms. Maxi-Mullins and Mr. Valles to the Surprise City Council for its consideration and ultimate appointment.
- City of Tempe Judicial Advisory Board
 - There are two openings; the Board is asked to submit a total of three nominations.
 - The Appointments Committee recommended sending the following names in ranked order: Incumbent Martha D. Ashburn (Martha D. Ashburn, Esq.), Amanda Chua

(Gillespie Shields Goldfarb & Taylor) and Molly Brizgys (Mitchell Stein Carey Chapman, PC).

- **MOTION:** Jennifer Rebholz moved, Lori Higuera seconded and the motion carried unanimously to nominate the slate of three to the Tempe City Council for its consideration and ultimate appointment of two individuals.
- Client Protection Fund Board of Trustees
 - No applications were received.
 - Candidate criteria: Lawyers and judges admitted at least 10 years but for this particular position members in Maricopa County are precluded from applying (Declaration of Trust allows for a maximum of two lawyer-trustees from any one county; there are two trustees currently serving from Maricopa County).
 - The Appointments Committee will continue to recruit applicants and asked the Governors for their assistance in recruitment.

Consent Agenda – Denis Fitzgibbons

Hearing no request to have any items removed from the Consent Agenda.

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

- a) Approval of May 21, 2021 Board Meeting Minutes
- b) Approval of Resignations in Good Standing
- c) Approval of Reinstatements of Members Suspended for Non-Compliance with MCLE Requirements (Rule 45, Ariz. R. Sup. Ct.)
- d) Approval of Suspensions for Non-Compliance with Annual Membership Fees and/or Trust Account Compliance (Rule 32(c)(10) and/or Rule 43, Ariz. R. Sup. Ct.)
- e) Fee Waiver Denial

Appointment to SALA Board of Directors – Denis Fitzgibbons

- The State Bar is asked to appoint a candidate when a county bar is not in operation.
- Recommending Gregory L. Droeger for a Santa Cruz County seat. Mr. Droeger previously served on SALA's Board, was termed out but after the stated period of time is eligible to serve again.

MOTION: Hector Figueroa moved, Jimmie Smith seconded and the motion carried unanimously to appoint Gregory L. Droeger to SALA's Board.

Mentor Program Status Report – Kendra Owens-Johnson

- 2019: Restructured Mentor Program that was in place to develop mentoring relationships.
 - One-to-One Mentoring Program concept
 - One-year commitment
- 2020: One-to-One Program Implemented
 - 7 pairs
- 2021: One-to-One Program
 - 14 Pairs
- 2020: Lawyer Down the Hall Program was developed when COVID-19 made it difficult to meet with a mentor in person.

- 20 pairs matched
- Currently 39 pairs in both programs with 15 mentors waiting to be matched.
- Worked with YLD in developing programs
- Majority of mentees are from large firms; mentors are from across the legal profession
 - Gender diversity but not race
- During Convention:
 - First Mentor Circle; informal, chance to share experiences
 - 4 Breakout Rooms; 8 facilitators; 70 registrants
- Program is marketed through E-blasts and at azbar.org/mentor
 - Website includes applications and curriculum

Status Reports

- Delivery of Legal Services Implementation Team – Lisa Panahi
 - David Byers:
 - Six to eight applications pending for the Alternative Business Structure program.
 - Three already approved - financial planners, venture capitalist
 - Approximately 150 people have signed up for the exam this summer to become a Legal Paraprofessional; testing on family law and ethics.
 - All subject to character and fitness process like attorneys.
 - 10 other states looking at Arizona’s LP/ABS models
- **Discipline on the Web Working Group** – Chris Russell
 - First meeting scheduled for August 19 at 1:30 p.m. via Zoom
 - Report to Board anticipated at September meeting
 - Welcomed Board members’ feedback regarding the DOTW topic.
- **Legislative Update** – Joe Hengemuehler
 - Special Session called by Gov. Doug Ducey to discuss wildfire funding.
 - A budget must be passed by the end of the fiscal year - June 30, 2021.
 - No bills this year challenging the State Bar’s structure.
 - Marijuana Convictions Expungement – David Byers
 - July 12 is the start date for people to get their marijuana convictions (data and documents) expunged.
 - Process explained and forms available on the Court’s website.
 - ASU law students handling cases.
 - State Budget Impact – Dave Byers
 - \$1.5B – includes 800K fewer traffic tickets (average \$250 restitution/incident); photo enforcement gone, fewer traffic stops during/ due to COVID
- **Social Justice, Bias and Inclusion Working Group** – Joel England
 - Thanks to ASU and UA law schools for collaborating on upcoming member survey to collect demographics of Bar.
 - Meeting today; discussing next steps.

- **Strategic Planning Working Group** – Jessica Sanchez
 - Finalizing a contract for software company Cascade.
 - Tool will track metrics and progress against the strategic plan, enforcing accountability.

Recognition of 2019-2020 President, Hon. Brian Furuya – Denis Fitzgibbons

- Denis Fitzgibbons honored Past President, Hon. Brian Furuya, for his work as President of the Board during 2019-2020. He felt well prepared for the position after speaking with Judge Furuya, with the exception of serving during a pandemic.
- Judge Furuya spoke about the mission of the State Bar and his passion for the profession.

Recognition of Outgoing Board Members – Denis Fitzgibbons

- Recognized Jena Decker-Xu for her contribution as president of the Young Lawyers Division and her simultaneous one-year tenure on the Board of Governors.
- Recognized John Gordon for his outstanding contributions to the Board’s work during his tenure as a public member, most recently as chair of the Program Review Working Group.

Recognition of Outgoing President Denis Fitzgibbons by Staff – Joel England

CEO England thanked Denis Fitzgibbons for his calm leadership during a challenging year and his valued support of the staff.

Recognition of Outgoing President Denis Fitzgibbons on Behalf of the State Bar of Arizona and Board of Governors – Jennifer Rebholz

President-Elect Rebholz reviewed the Bar’s accomplishments and initiatives during President Fitzgibbons’ tenure regardless of the pandemic and pivoting to virtual Bar activities, including Zoom Board meetings.

2021-2022 Bar Year – Jennifer Rebholz

- Focus will be on access to justice
- Made appointments to standing Bar committees
- Finalizing the Governors’ assignments (Board committees/working groups)
- Reminded Board members to complete/return annual compliance forms: Conflict of Interest, Code of Conduct, and Oath.

Adjourn: MOTION: Jimmie Smith moved, Hector Figueroa seconded and the motion carried unanimously to adjourn at 4:24 p.m.

Respectfully submitted,

Benjamin P. Taylor
Secretary/Treasurer