

**MEETING OF THE
BOARD OF GOVERNORS
OF THE
STATE BAR OF ARIZONA
May 21, 2021
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; Jena Decker-Xu, Young Lawyers Division; 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; John Gordon, Prescott; Jonathan Martone, Paradise Valley; Anna Thomasson, Paradise Valley; and At-Large Members David Byers, Phoenix; Lori Higuera, Phoenix; Dean Marc Miller, Tucson.

EXCUSED ABSENCES: Hector Figueroa, Payson; Doreen McPaul, Window Rock

OTHERS PRESENT: Deanna Commack, Executive Assistant; Sarah Corpening, Membership Administrator & Services Manager; Lisa Deane, Chief Member Services Officer; Joe Hengemuehler, Chief Communications Officer; Joel England, CEO/Executive Director; Kathy Gerhart, Chief Financial Officer; Connie Hay, Board of Legal Specialization Administrator; Lori Maxwell, Chief Information Officer; Lisa Panahi, General Counsel; Amy Rehm, Deputy Chief Bar Counsel; Patricia Seguin, Legal Services Manager; Carrie Sherman, Director of Board Operations; Karen Van Allen, Administrative Assistant; Maret Vessella, Chief Bar Counsel; and Rachel Williams, Human Resources Manager.

GUESTS: Victoria Ames on behalf of ASU Law School Dean Douglas Sylvester, Phoenix; Mignonne Hollis, Public Governor-Elect; Gaya Shanmuganatha, President-Elect, Young Lawyers Division; BLS Chair Wendi Sorensen; BLS Vice Chair James Cross; Attorney Robert H. Willis; Assistant Dean Leah Won, UA Law School, Phoenix.

President Denis Fitzgibbons called the virtual Board Meeting to order at 8:31 a.m.

Call to the Public – President 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 – President Denis Fitzgibbons

- ABA Day on The Hill: Attended; thanked CCO Joe Hengemuehler for a great job coordinating virtual meetings; focus was on legal services funding; also addressed judicial security.
- Discipline System Oversight Committee: Appointed a Discipline on the Web Working Group – Chair Chris Russell will be joined by Sharon Flack, Benjamin Taylor, Anna Thomasson, CEO Joel England and himself.

- Bar Leadership Institute: Attended and presented at graduation ceremony (virtual) along with the Board officers; thanked Elena Nethers, Director of Diversity, Equity and Inclusion, for another wonderful leadership program and ceremony honoring the graduates.
- Attended the retirement celebration for Disciplinary Judge William J. O'Neill; presented a memento on behalf of the State Bar.
- Orientation: Along with Jennifer Rebholz, held orientation for new Board members.
 - Diandra Benally is a full voting member at today's meeting.
 - Gaya Shanmuganatha and Mignonne Hollis become full voting members at the conclusion of the Annual Meeting/Convention

CEO's Report – Joel England

- ABA Law Day: Added his thanks to Joe Hengemuehler who did a great job.
- BLI graduation: Presented and added his thanks to Elena Nethers.
- National Association of Bar Executives: Attended the Chief Staff Executives virtual conference; topics included data-driven organizations and how associations are coping in the pandemic.
- Access to Justice: Hotline ended the middle of April; over 3,000 callers in its 10-month operation; about 1/3 had a free consultation with an attorney.
- Find-a-Lawyer: Ongoing analysis being performed by the Board's Program Review Working Group chaired by John Gordon.
- Orientation: Presented at the new Board members' orientation on 5/17/21; look forward to working with them in the coming year.

Mark Harrison Memorial 10-Minute Topics – Robert McWhirter

Voting Rights History

Board of Legal Specialization (BLS) Sub-Specialties – Denis Fitzgibbons, Lisa Deane, Connie Hay, Wendi Sorensen, James Cross, Bob Willis

- BLS Chair Wendi Sorensen gave an overview of where BLS is, the history, and review of specialties as the practice of law has changed. Possible new specialty areas: Education, Immigration, Indian Law. There has been a significant drop in specialists applications.
- It was noted that 10 ten bars have done away with specialization and 13 bars are offering specialization. Arizona has approximately 500 specialists.
- Joel England shared a link: <https://www.azbar.org/for-the-public/legal-help-education/why-hire-a-certified-specialist/>
- Future focus on promoting becoming a specialist and publicizing specialists to legal consumers.
- Bob Willis: Reason for the proposed new specialty in construction defect law - construction law is more about contracts and construction defect law is very different.
 - Wants it easy for the public to find an attorney
Fewer jury trials (regarding qualifications to be a specialist); this was an old measuring stick and not relevant any longer.

- **MOTION:** Jennifer Rebholz moved, Bob McWhirter seconded and the motion carried by a vote of 18-1-1 to approve the creation of a new legal specialty in Construction Defect Law.

Attorney Regulation Advisory Committee’s (ARC) Annual Report – Maret Vessella

- Required to file an annual report; it is included in the materials
 - The intake process has five lawyers that serve that function.
 - There is another group of litigation lawyers who investigate.
 - Probable Cause Committee – six lawyers and six non-lawyers are appointed by the Supreme Court to review the case.
 - Formal complaints go to the Presiding Disciplinary Judge, Hon. Margaret Downie.
 - There has been a significant drop in charges in 2020; and a decline since 2016.
- Jennifer Rebholz asked whether staff is able to capture data about demographics to assist the Task Force on Social Justice, Bias and Inclusion. Staff is working with Elena Nethers on the development of a system to track this information.
- Independent Bar Counsel - The Court issued an Administrative Order to establish this position to deal with cases (from applicants, complainants, respondents, material witnesses, or otherwise) who are connected with the lawyer discipline system or the State Bar of Arizona and might have a potential conflict of interest.
- Joel England included a link to the CA audit: www.bsa.ca.gov/pdfs/reports/2020-030.pdf.

Consent Agenda – Denis Fitzgibbons

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

- **MOTION:** Bob McWhirter moved, Jennifer Rebholz seconded, and the motion carried unanimously to approve the Consent Agenda:
 - a) Approval of April 16, 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 Suspension for Failure to Complete the Professionalism Course
 - e) Fee Waiver Denials
 - f) Proposed Reply to R-21-0016, Petition to Amend Rule 45(a)2, Ariz. R. Sup. Ct.
 - g) Proposed Reply to R-21-0021, Petition to Amend Rules 4.1 and 4.2, Ariz. R. Civ. P.

Finance and Audit Committee – Benjamin Taylor, Kathy Gerhart

- December 31, 2020 Final Internal Financial Statements
 - Preliminary Surplus \$888K
 - Final Surplus \$758K
 - Difference of \$130K
 - Difference is due to accounting rule change on how money is collected for CLE classes and reported in the financial statements
 - Previously recorded as collected
 - Now required to report revenue when the class is taken
 - In 2020, a significant number of in-person classes were transitioned to online with the option to take them within a 12-month period.

- Based on a new accounting rule, money collected in 2020 for classes not taken at the end of 2020 were shown as prepaid and will be recognized in 2021.
- March 31, 2021 Financial Statements and Q1 2021 Dashboard
 - As of March 31st, the Bar has generated a surplus of \$789K which is \$646K more than budgeted (favorable)
 - \$256K more in revenue
 - \$390K less in expenses
 - Significant variances
 - Dues Penalties Revenue - \$101K less than budgeted
 - Due to COVID and changing landscape, too soon to identify timing vs. permanent variances.

Status Reports

- **Discipline on the Web Working Group** – Maret Vessella
Group’s appointment mentioned previously; first meeting to be scheduled soon.
- **Legislative Update** - Joe Hengemuehler
 - Budget yet to be sent to the Governor.
 - SB1230 Limited Liability companies was signed by the Governor on May 3, 2021.
 - No bills bifurcating the State Bar have yet to appear.
- **Social Justice, Bias and Inclusion Working Group** – Lisa Deane
 - Met with a professor from the University of Arizona to discuss the demographics survey that the group would like to do.
 - Elena Nethers is working with Mike Vallone and Kathy Gerhart to develop a vendor policy that addresses diversity.
 - Ms. Nethers is also working with Rachel Williams on an HR policy to address diversity.
- **Strategic Planning Working Group** – Jessica Sanchez
Staff is in the process of finalizing the selection of a software package to track metrics/progress.

Standing Board Committee Assignments - President-Elect Jennifer Rebholz

Asked the Board members to send staff their preferences for Board committee/working group assignments.

Program Review Working Group – John Gordon

A survey regarding Find-A-Lawyer was sent out Bar wide. Urged the Board members to complete it. Responses vital to the Group’s review of the program and its ultimate recommendations.

Board of Governors June 15 Meeting – In-Person at Sheraton Wild Horse Pass Resort and Spa, Chandler/Phoenix

- 11:00A - 1:00P Annual Awards Luncheon
- 1:30P - 5:00P Board of Governors Meeting: Photos will be taken; please wear business attire.
- 5:00P - 7:00P - Past Presidents’ Reception

Adjourn: Chris Russell moved, Jennifer Rebholz seconded and the motion carried unanimously to adjourn at 10:16 a.m.

Respectfully submitted,

Benjamin P. Taylor
Secretary/Treasurer