

**MEETING OF THE
BOARD OF GOVERNORS
OF THE
STATE BAR OF ARIZONA
April 16, 2021
Phoenix, AZ**

BOARD MEMBERS PRESENT: Denis M. Fitzgibbons, President, Casa Grande; President-Elect; Jennifer Rebholz, Phoenix; Jessica Sanchez, Vice President, Mesa; Benjamin Taylor, Secretary-Treasurer, Phoenix; Sandra Bensley, Tucson; Jena Decker-Xu, Young Lawyers Division; Hector Figueroa, Payson; Sharon Flack, Prescott; Kelsi Lane, Phoenix; Leticia Marquez, Tucson; Robert McWhirter, Phoenix; John Moody, Phoenix; David Rosenbaum, Phoenix; D. Christopher Russell, Sierra Vista; Samuel Saks, Phoenix; Ted Schmidt, Tucson; Jimmie Dee Smith, Yuma; Public Members: Robyn M. Austin, Tucson; John Gordon, Prescott; Jonathan Martone, Paradise Valley; Anna C. Thomasson, Paradise Valley; At-Large Members David K. Byers, Phoenix; Lori Higuera, Phoenix; and Doreen McPaul, Window Rock; Dean Marc Miller, UA Law School, Tucson.

EXCUSED ABSENCES: Eric Ruckensky, Flagstaff, and Dean Douglas Sylvester, ASU Law School, Tempe.

OTHERS PRESENT: Sarah Corpening, Membership Administrator & Services Manager; Lisa Deane, Chief Member Services Officer; Tim Eigo, Editor; Joel England, CEO/Executive Director; Nick Gustin, PMO Director; Rick Palmatier, Assistant General Counsel; 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; Rachel Williams, Human Resources Manager; Supreme Court Liaison Hon. J. Beene, Phoenix; Assistant Dean Victoria Ames on behalf of Douglas Sylvester, Phoenix; Assistant Dean Leah Won on behalf of Dean Marc Miller, Tucson.

Guests: Diandra Benally, Jay Calhoun, Carlos Carrion, Sheena Chiang, Mignonne Hollis, Michael Farrell, Emily Ward, and Charles Wirken.

President Denis Fitzgibbons called the virtual Board Meeting to order at 8:32 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

- Acknowledged re-elected Board members: Sharon Flack, District 2; Leticia Marquez, District 5; Sam Saks, District 6; and Jimmie Smith, District 7.
- Find-a-Lawyer – continuing to evaluate this program
- Attended the Court Leadership Institute of Arizona (CLIA) Conference in Tucson
 - David Byers added:
 - Conference received high scores on evaluations

- traffic fines/fees down which fund Court programs; this will cause structural difficulties; the state budget is down \$41M
- Bill introduced to recalibrate fees however Legislature is providing needed funding
- Responded to public records request regarding the Bar joining as amicus in the *Crowe* case, attempt to dismantle the mandatory Oregon Bar.
- Discipline System Oversight Committee – a working group will be appointed to look at what lawyer discipline is available on the web.
- Senior Lawyers Division: Continuing to look into the issue of fees for Retired Members.
- Served on search committee for new Presiding Disciplinary Judge; Hon. Margaret Downie appointed; retiring PDJ William J. O’Neil will stay on to mid-May to finish cases.
- Convention:
 - Return hotel/ticketed events form
 - June 15 in-person: awards luncheon; Governors’ meeting; Past Presidents’ Reception
- Virtual ABA Day on The Hill is April 20-21; main topic for Arizona delegation – lobby for increased funding for the Legal Services Corporation.

CEO’s Report – Joel England

- Added his congratulations to re-elected Board members.
- Introduced Employee of the 1st Quarter, I.T. Business Analyst Nick Gustin.
- CLE by the Sea: Cancelled due to a limitation of space due to the pandemic and construction at the hotel site; no cancellation fee.
- Legal Services Hotline: April 15 was the last day of service for the hotline. Total of 3,100 calls since its launch. Structure in place for any future needs.
- Operational Posture: The 20% cap for the number of people being in the office ends on June 1.
 - Safety measures will be in place;
 - The requirements will be different in different parts of the building;
 - We will continue to re-evaluate; and
 - The building will be open to the public and members.

Executive Session 8:50 a.m. – 9:18 a.m.: Board Members met in a private Breakout Room to discuss the CEO’s performance review.

UA Law School Update – Dean Marc Miller

Dean Miller updated the Board on the law school’s initiatives:

- Welcomed engagement and advice
- Newsletter: *Wildcat Wednesday – Letter of the Law*; he hoped everyone is signed up to receive it; Assistant Dean Leah Won provided a link in the Chat function
- Higher percentage of non-JD’s than in any other program
- Traditional programs are a steady and deep pool and have been for years
- 80% of students are non-residents; 15% of those are international
- 65% of graduates stay in AZ
- 60% of students are female

- The average age of 27 is older than the national average
- Faculty: Many have a JD and a PhD; have outside experience
- Accept the GRE in place of the LSAT
- Programs are global; e.g., in Cambodia and China
- Master of Legal Studies (MLS) has a degree with a concentration in Mining Law and Policy that is the leading program in mining.
- COVID-19: Still navigating that space but made it through
- Partnerships
- LPs (formerly LLLPs): Doing a ton of work in this area
- Mexico: Delivering courses in Spanish
- JD-Next program addressing diversity and inclusion
- Career placement is the highest in history (despite COVID); national numbers of placement within diversity is troubling and needs to be addressed; females are 50% of graduates, but the numbers don't show up on the bench or as partners, etc.
 - No one has changed their interviewing policy despite BLM and racial injustice issues.
 - UA will be interviewing earlier

Rules Review Committee – Jennifer Rebholz

- Proposed Comment to R-20-0040, Petition to Amend Rule 56€(3), Ariz. R. Civ. P. The Committee is against the proposal which allows parties to opt out of a statement of facts on a case-by-case basis.
MOTION: Robert McWhirter moved, Chris Russell seconded and the motion carried by a vote of 20-1-1 to “approve the proposed Comment to R-20-0040 as recommended by the Rules Review Committee.”
- Proposed Revisions to Criminal Jury Instructions; not controversial, it passed through the Committee unanimously; this body, not the Court, approves the Instructions.
MOTION: Robert McWhirter moved, Chris Russell seconded and the motion carried by a vote of 20-0-2 to “approve the Rules Review Committee’s recommendation with regard to the proposed revisions to the Criminal Jury Instructions.”
- Noted that in the Consent Agenda there are other Rules-related matters.

Consent Agenda – Denis Fitzgibbons

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

- **MOTION:** Chris Russell moved, Jennifer Rebholz seconded and the motion carried by a vote of 21-0-1 to approve the Consent Agenda:
 - a) Approval of February 22, 2021 Board Meeting Minutes
 - b) Approval of Resignations in Good Standing
 - c) Approval of Reinstatements
 - i) Reinstatements of Members Suspended for Non-Compliance with MCLE Requirements (Rule 45, Ariz. R. Sup. Ct.)
 - ii) Reinstatement of Members Suspended for Non-Compliance with Annual Membership Fee and/or Trust Account Compliance (Rule 32(c)(10) and/or Rule 43, Ariz. R. Sup. Ct.)

- d) MCLE Waivers
 - i) Denial
- e) Proposed Petition to Amend Arizona Rules of Family Law Procedure to Add New Rule 22.1
- f) Proposed Comment to R-21-0006, Petition to Amend Various Rules of Procedure Related to the Peremptory Change of Judge
- g) Proposed Comment to R-21-0020, Petition to Amend Rule 18.4 and 18.5, Ariz. R. Crim. P. and Rule 47(e), Ariz. R. Civ. P.
- h) Proposed Comment to R-21-0008, Petition to Amend the Arizona Rules of Supreme Court to Adopt New Rule 24 – Jury Selection

HR Subcommittee – Denis Fitzgibbons

MOTION: Jennifer Rebholz moved, Jessica Sanchez seconded and the motion carried unanimously to approve the HR Subcommittee’s recommendations with regard to the CEO’s performance evaluation and compensation.

SBA Annual Awards – Jennifer Rebholz

Ms. Rebholz indicated that discussions are underway as to how the Bar might honor Mark Harrison in a more permanent way. After discussion, the Board agreed to vote on the slate as opposed to taking each individual award proposal under advisement.

MOTION: Robert McWhirter moved, Jimmie Smith seconded and the motion carried unanimously to approve the slate of annual award winners as recommended by the Awards Working Group:

- Award of Appreciation: Ms. Christine Groninger, Arizona Foundation for Legal Services & Education
- Award of Special Merit: Anne Ronan, Arizona Center for Law in the Public Interest
- Diversity and Inclusion Leadership Award: Hon. (Ret.) Carol Berry
- Hon. John R. Sticht Disability Achievement Award: Kacie Nickel, Maricopa County Public Defender’s Office
- James A. Walsh Outstanding Jurist Award: Hon. Joseph Kreamer, Maricopa County Superior Court
- Member of the Year: Mark Harrison, Osborn Maledon PA (posthumously)
- Michael C. Cudahy Criminal Justice Award: Kent Volkmer, Pinal County Attorney’s Office
- Outstanding In-House Counsel of the Year Award: Mark Rogers, Amkor Technology Inc.
- Sharon A. Fullmer Legal Aid Attorney of the Year Award: Jamie Balson, Legal Services for Crime Victims in Arizona
- Tom Karas Criminal Justice Award: Richard Coffinger, Law Office of Richard D. Coffinger

The award recipients will be notified by email by COB on Monday. Nominees and supporters will then also be sent an email notice soon thereafter. A reminder that the Awards Luncheon will be an in-person event on June 15 at the Sheraton Grand Wild Horse Pass Resort & Spa in Chandler, immediately preceding the Board meeting.

Juries, Race and Police History was presented by Robert McWhirter.

Appointments Committee – Jessica Sanchez

Board of Governors Public Member Position - Interviews

- John Gordon's second and final term is up in June and he is ineligible for reappointment.
- This particular seat is open to citizens from throughout the state except for Maricopa County as no more than two Public Governors may be from any one county and there currently are two serving from Maricopa County.
- The Board submits nominations to the Supreme Court for its consideration and ultimate appointment.
- The Board interviewed Mignonne Hollis from Cochise County.

MOTION: David Rosenbaum moved, Chris Russell seconded and the motion carried unanimously to nominate Mignonne Hollis as a Public Governor to the AZ Supreme Court for its consideration.

Board of Governors District 6/Maricopa County – Interviews

- Seven of eight applicants for the seat left vacant by Mark Harrison were interviewed by the Committee.
- Pursuant to Court rule, the Board makes the appointment to fill a vacant seat by majority vote.
- The Board interviewed the Committee's three finalists: Diandra Bennally, Jay Calhoun, Sheena Chiang. The votes each candidate received from the Committee were noted in the Board Reporting Form.
- 1st vote of the Board: Chiang 7; Benally 6; Calhoun 6
- 2nd vote between Benally and Calhoun: Benally 10 and Calhoun 9
- 3rd vote between Benally and Chiang: Benally 12 and Chiang 9
- Ms. Benally will immediately fill the District 6 vacancy

Committee on Character and Fitness – Lawyers

- Unexpected resignations of lawyer and public members from the Character and Fitness Committee for which the Appointments Committee was asked to recruit
- The Appointments Committee recommended sending the names of four candidates to the Court for two openings. The applicant pool was not large enough to send three nominations per opening per Court rule:

- Mr. Shannon L. Clark, Gallagher & Kennedy PA
- Ms. Cynthia A. Braun, Bailey Law Firm
- Mr. Rick L. Frimmer, Stadling Yocca Carlson & Rauth
- Ms. Lorraine Morey, Morey Law Firm

MOTION: John Gordon moved, David Rosenbaum seconded and the motion carried by a vote of 17-1 to submit the list of candidates to fill lawyer positions on the Court Committee on Character and Fitness.

Committee on Character and Fitness – Public Member

- The Appointments Committee recommended sending the names of three candidates to the Court (pursuant to Court rule):
 - Mr. Freddie Dobbins, Jr., Salt River Project

- Ms. Leslie Blue, Smarter Divorce Solutions
- Ms. Inna Korenzvit, KORE Accounting Solutions

MOTION: Robert McWhirter moved, John Gordon seconded and the motion carried by vote of 18-1 to submit the list of candidates to fill a public member position.

Special Constitutional Appointments Committee (SCAC) – Jessica Sanchez

- Arizona Commission on Appellate Court Appointments
 - The Appointments Committee recommended sending the names of five candidates to the Governor of Arizona to fill a non-Maricopa County seat on the Arizona Commission on Appellate Court Appointments:
 - Ms. Alison Crane, Attorney General’s Office
 - Ms. Tanya N. Miller, U.S. Attorney’s Office
 - Mr. Oscar S. Lizardi, Rusing Lopez & Lizardi PLLC
 - Mr. Mark D. Rubin, Rubin & Bernstein PLLC
 - Mr. G. Micah Schmit, U.S. Attorney’s Office

MOTION: John Gordon moved, Jimmie Smith seconded and the motion carried unanimously to approve the slate as recommended and to submit it to the Governor to fill a seat on the Commission on Appellate Court Appointments.

- Coconino County Commission on Trial Court Appointments
 - No applications were received for the Supervisorial District 3 and 5 seats
 - Recruitment will continue

- Maricopa County Commission on Trial Court Appointments
 - The Appointments Committee recommended sending the names of four candidates to the Governor of Arizona to fill a seat on the Maricopa County Commission on Trial Court Appointments in District 2:
 - Mr. James E. Holland, Stinson LLP
 - Mr. Bradley D. Holm, City of Phoenix Aviation Department
 - Mr. Gregg C. Gibbons, Gregg Clarke Gibbons PC
 - Mr. Keith L. Hendricks, Moyes, Sellers & Hendricks Ltd.

 - The Appointments Committee recommended sending the names of two candidates to the Governor of Arizona to fill a seat on the Maricopa County Commission on Trial Court Appointments in District 4:
 - Ms. Lynda R. Vescio, Law Offices of Vescio & Seifert PC
 - Ms. Brooke A. Gaunt, Maricopa County Attorney’s Office

 - The Appointments Committee recommended sending the name of one candidate to the Governor of Arizona to fill a seat on the Maricopa County Commission on Trial Court Appointments in District 5:
 - Mr. Robert E. Wisniewski, Robert E. Wisniewski PC

MOTION: Jimmie Smith moved, John Gordon seconded and the motion carried unanimously to submit to the Governor the ranked candidates from the

SCAC to fill Supervisorial Districts 2, 4, and 5 seats on the Maricopa County Commission on Trial Court Appointments.

- Pima County Commission on Trial Court Appointments
 - The Appointments Committee recommended sending the names of two candidates to the Governor of Arizona to fill a seat on the Pima County Commission on Trial Court Appointments in District 2:
 - Mr. James A. Fein, James A. Fein, Attorney at Law
 - Ms. Tanya N. Miller, U.S. Attorney's Office
 - MOTION:** John Gordon moved, Jimmie Smith seconded and the motion carried unanimously to submit to the Governor the ranked candidates from the SCAC to fill Supervisorial District 2 on the Pima County Commission on Trial Court Appointments.
- Pinal County Commission on Trial Court Appointments
 - No applications were received for the Supervisorial Districts 3 and 4 seats
 - Recruitment will continue

Proposed Amendments to the Client Protection Fund Declaration of Trust – Lisa Panahi

- Amendments required to include the new Court-approved Legal Paraprofessionals
- Draft has been reviewed and approved by the CPF Board of Trustees
- MOTION:** David Byers moved, David Rosenbaum seconded and the motion carried by a vote of 14-1-1 to approve the proposed Amendments to the Client Protection Fund Declaration of Trust.

Certification of Board of Governors Election Results – Denis Fitzgibbons

MOTION: Jessica Sanchez moved, John Gordon seconded and the motion carried by a vote of 17-1 to certify the Board of Governors Election Results.

Finance & Audit Committee – Benjamin Taylor

- The Board adopted the 2021 SBA budget in December 2020, which included the approval of merit pool for staff with an effective date of April 1, 2021. Recommendation coming from the Finance & Audit Committee is to revise the effective date of staff merit increases to January 1, 2021.
- Recommendation would reduce the 2021 budgeted surplus by \$24,000.
- Both the HR Subcommittee and F&A Committee approve of the recommendation.

MOTION: David Byers moved, David Rosenbaum seconded and the motion carried by a vote of 16-1-1 to approve the effective date for staff merit increases to January 1, 2021 from April 1, 2021.

Appointment to SALA Board of Directors – Denis Fitzgibbons

- Anthony Young, Executive Director of the Southern Arizona Legal Aid, Inc., reached out to Joel England.
- The Cochise County Bar Association is currently inactive so it cannot help in filling a Cochise County seat on the SALA Board.
- In past years recruitment assistance was provided by the Appointments Committee but Mr. Young indicated that a volunteer has been identified - a retired judge.
- Mr. Young requests that the Board of Governors appoint Judge Jim Conlogue.

MOTION: Chris Russell moved, Dave Byers seconded and the motion carried by a vote of 18-1 to appoint Hon. (Ret.) Jim Conlogue to the vacant Cochise County seat on SALA's Board of Directors.

Status Reports

- **Delivery of Legal Services Implementation Team** – Lisa Panahi
 - Roberta Tepper is researching carriers willing to underwrite a professional liability policy for Legal Paraprofessionals.
 - We continue to reach out to the AOC regarding information on newly licensed ABSs and Legal Paraprofessionals.
 - David Byers:
 - Two ABSs have been approved; Administrative Order to follow.
 - About 100 people are on the list to take the Legal Paraprofessional exam; the first exam is in late April or early May; candidates will be screened through Character and Fitness.
- **Legislative Update** – Joel England
 - Mr. England reported that CCO Joe Hengemuehler was fully engaged in planning the virtual participation of leaders within the Bar and legal community in the annual ABA Day in Washington, D.C.
 - David Byers:
 - Now that recreational marijuana is legalized in Arizona, cases prior to July 2012 can be expunged
 - Citizens might need help to have their cases expunged
 - No filing fee
 - Might be a CLE opportunity
- **Social Justice Task Force Initiatives** – Lisa Deane
 - The Working Group will meet next week to develop the Bar wide survey to capture its demographics.
- **Strategic Planning Working Group** – Jessica Sanchez
 - Staff continues to research software programs to track metrics in order to report the Plan's progress.

Announcement - July Bar Exam: Will be virtual; tremendous cost savings over in-person event.

Correspondence Reports

- Executive Council Meeting Minutes – February 12, 2021
- Executive Council Meeting Minutes – March 19, 2021

Adjourn: John Gordon moved, Chris Russell seconded and the motion to adjourn at 12:32 p.m. carried unanimously.

Respectfully submitted,

Benjamin P. Taylor
Secretary/Treasurer