

UTAH STATE BAR
BOARD OF BAR COMMISSIONERS
MINUTES

APRIL 25, 2008
HISTORIC CACHE COUNTY COURTHOUSE
LOGAN, UTAH

Present: President V. Lowry Snow and Commissioners: Nathan Alder, Steven R. Burt, Christian Clinger, Rob L. Jeffs, Curtis M. Jensen, Felshaw King, Lori W. Nelson, Herm Olsen, Stephen W. Owens, Scott R. Sabey, and Rodney G. Snow. Ex-Officio Members: Sharon M. Andersen and Gus Chin. Executive Director John C. Baldwin and General Counsel Katherine A. Fox.

Excused: Commissioners: Yvette D. Diaz and Mary Kay Griffin. Ex-Officio Members: Hiram E. Chodosh, Laurie D. Gilliland, Charlotte L. Miller, Paul T. Moxley, Karthik Nadesan, Stephanie W. Pugsley and Kevin Worthen. Supreme Court Liaison Marilyn (Matty) Branch.

Minutes:

NEW ITEM:

Lowry Snow asked Commissioners to review the calendar on the back of the agenda for dates and times of upcoming events.

1. PRESIDENT'S REPORT

1.1 Report on Western States Bar Conference

Lowry, Nate Alder, Rob Jeffs, Lori Nelson and Steve Owens recently attended the Western States Bar Conference. Nate reported that he learned that unfortunately, our \$1 million reserve could easily be depleted if an "issue" arose, e.g., citizens' referendum on judicial retention, which required our opposition. He also learned about the Nevada Bar's efforts to curb inappropriate lawyer advertising and would like to see something similar adopted here.

Rob reported that he found that most lawyer referral programs have incorporated a low bono component. Most, if not all of these programs also require lawyers to have professional malpractice insurance. The Washington Bar recently had a problem with

document preparers in the domestic law area. Supporters of the new limited practice rule approached the Washington Legislature and the issue is now before the Washington Supreme Court. The new rule, if passed, would be an additional expense to the Washington Bar because violators would be subject to attorney-type discipline.

Lori reported that some bars are facilitating the availability of health insurance to their members. Montana and Idaho have recently instituted a Bar-sponsored program. While the insurance is not necessarily the best or the cheapest, it clearly offers members another option. She further reported that due to a restructured “pay as you go” licensing system, Alabama has experienced a significant decrease in bar dues.

Steve reported that we should consider hosting a “Utah State Bar Day”. Montana hosts a “Bar Road Show” which addresses prominent current legal issues. He further reported that some bars have term limits for their board members and have adopted reciprocity agreements with other countries. He ended by stating that the Oregon Bar is currently fighting a referendum to cap lawyer contingency fees to 10%.

1.2 Report on Northwest Bar Consortium Meeting

Lowry and Joni Seko attended the recent Northwest Bar Consortium meeting. Consortium members include Washington, Oregon, Nevada, Utah, Idaho and Montana. Lowry reported that the consortium began with reciprocity for admission purposes. He reported that a limited practice rule issue in Washington relating to document preparation in domestic relations area is currently before the Washington Supreme Court. The political force behind it was “Access to Justice” report vis a vis unmet legal needs. A counter movement increased emphasis with unbundled services, pro bono and low bono programs. He further reported that Montana recently opened up its water law practice area to non-lawyer participation and Oregon recently launched a five year “E” court filing program including fees, documents, etc. He ended his report by observing that other states are quite interested in our mentoring program efforts.

1.3 Invitation to Jackrabbit Bar Conference

Lowry reminded everyone that we are hosting the Jackrabbit Bar conference this year. If interested in attending, he advised those in attendance to please turn in registrations to Connie Howard.

1.4 Invitation to Law Day Luncheon

Nate said that the Law Day luncheon will be held on May 1st at noon at the Little America. Judge Michael McConnell will speak and Margaret Plane is slated to receive an award as the Young Lawyer of the Year. The courts have decided to support Law Day events with a newspaper insert. Lowry added that a link will be available on the Bar’s website concerning the newspaper insert and the Bar will reimburse lunch reservations.

1.5 Support for Legal Services Funding

Nate and Lowry recently met with all five Utah Congressional representatives for ABA Day in Washington D.C. They lobbied on behalf of stemming erosion of attorney/client privilege in prosecutions but the primary effort was lobbying for more federal funding for legal services. He further reported that he became aware that Utah's Access to Justice Council efforts have become a national model through ABA promotion.

2. EXECUTIVE DIRECTOR'S REPORT

2.1 March Financials

John Baldwin reported that there was an unprecedented increase of 557 new lawyers with additional new lawyers being admitted during the May admissions ceremony. (We usually only have about 400 new lawyers per licensing cycle.) This increase helps pay for the new part time admissions staff member, but we cannot count on increases this large in the future to augment the admission's budget.

John said that the variance column on the March financial statement shows the Bar is \$290,253 in the black. The projection at year end will be approximately \$130,000 to the good in addition to our reserves. We've invested heavily in Commission education travel for meetings this year which will be more fully reflected on the year end financials. Also, there will be an additional expense of \$20,000 to John Becker not yet reflected. Rob made an observation that other bars use CLE as a profit center instead of "zero base" like we do. John responded that we could raise CLE price per hour fairly easily. He further stated that Sun Valley is beginning to become very expensive and as a consequence some lawyers will eventually be prohibited from attending. John opined that eventually the Fall Forum may replace the Annual Convention and become a two-day event that more lawyers can afford. He continued, however, that there is no location in Utah that has overnight accommodations like Sun Valley has for a large group. Steve inquired if it was possible to keep Sun Valley as a "minor" convention and Nate opined that lawyers with a tradition of attendance will oppose leaving Sun Valley. John concluded by saying that the Bar Journal has a new, less expensive publisher and we are limiting the number of pages to cut costs.

Lowry noted that the May 30th meeting is Commission's Budget meeting.

3. ACTION ITEMS

3.1 Judge, Lawyer, Section and Committee Awards

A new handout containing additional nominations for each category was distributed.

Judge Derek P. Pullan and Judge Glen K. Iwasaki were nominated for Judge of the Year. Discussion ensued. **Nate made a motion to select Glen K. Iwasaki as the recipient. Lori seconded the motion which passed with none opposed.**

Charles R. Brown, Ronald S. Poelman, Paul Felt, Dale Lambert, Reed Martinau, and Lori Nelson were nominated for Lawyer of the Year. Discussion ensued. **Christian Clinger made a motion to select Charles R. Brown as the recipient. Rob Jeffs seconded the motion which passed unopposed.** Nate would like Lowry's name carried forward as a nominee for next year. Lori asked that Reed Martineau's nomination be changed to "Life Time Service to the Bar" and reconsidered at a later time. Lowry responded that since Fall Forum is the next big event, we can give the "Life Time Service to the Bar" award at that time. Rod Snow suggested discussing the nomination for this latter award at the May or possibly the July meeting.

The Appellate Practice Section, Young Lawyers Division, Estate Planning Section, and IP Section were nominated for Section of the Year. Discussion ensued. **Nate made a motion to select the Young Lawyers Division as the recipient. Christian seconded the motion which passed unopposed.** Gus Chin suggested mentioning the other nominees at the upcoming convention.

The Admissions Committee and New Lawyer CLE Committee were nominated for Committee of the Year. Discussion ensued. **Herm Olsen made a motion to select the Admission Committee as the recipient. Lori seconded the motion which passed unopposed.**

3.2 Funding for "Wills for Heroes" Laptops

The new Young Lawyers Division outline for the "Wills for Heroes Event" was distributed. Nate said a request for funding has been made to help purchase laptop computers for this event. YLD looked into leasing laptops but scheduling appeared to be problematic. Scott Sabey said that these free legal clinics will be held two times a year across the state, e.g., St. George, Provo, Ogden, Logan and four times a year in Salt Lake; maintaining 10 laptops on site becomes important. He is concerned that it will cost more than \$5,000 to purchase appropriate laptops but is in favor of the funding. Lori voiced her approval also and would like to see the funding to purchase these laptops increased to \$10,000. **Steve Owens made a motion to approve up to \$10,000 to purchase laptops. Rob Jeffs seconded the motion which passed unopposed.**

Rod said he will follow up with soliciting contributions from law firms and NuSkin to help offset the costs to the Bar. He stated that YLD has concerns with "corporate sponsors" publicity with this program so solicitations need to be for "contributions" rather than "donations". Steve Burt said laptops will only last 3-4 years so this one time purchase is a short term solution. He continued that the H.P. laptops are very expensive to repair and perhaps not the best choice. Christian said P.C. laptops would be a better option and we can qualify for an ABA discount. Lowry, along with others, believe Dell laptops are a better option. Nate in light of his connections at Dell, will see if we can get

a better price. Lowry observed that the Paralegal Division has been very helpful in making this program a success.

4. INFORMATION ITEMS

4.1 Admissions Department Committee Report

Nate advised that the Admissions report needs further editing. He will have a final report for the May meeting.

4.2 Pro Bono Committee Report

Herm Olsen reported that the new focus of the Bar's program has changed to "recruit, retain and reward" attorneys for their pro bono efforts. The Bar places cases in the areas of: habeas corpus petitions referred by judges, JAG program (military members on active service facing default judgments), and conflict cases with Utah Legal Services and similar organizations. In 2007, our efforts almost doubled with lawyers contributing 150,000 hours which amounts to approximately \$144,000 in donations.

Rob interjected that there is a feeling among many Bar members that the Bar itself is not doing enough in the pro bono area. He suggested considering making an additional report recommendation for the Bar to contribute more meaningfully in this area, specifically by providing staff to help coordinate service with various local bar associations for their Tuesday Night Bar programs. This would be a visual for the community as well as Bar members that the Bar is making more concerted efforts in this area. Lowry responded that these were good suggestions. Gus said that many members do pro bono but do not report it because it is not mandatory. As a consequence, we need to encourage more accurate pro bono reporting.

4.3 Management and Technology Committee Report

Rob said that the Management and Technology report is currently in the draft stage and needs to be finalized. He reported that the outside technology audit is just beginning. Lincoln, however, has completed an internal review and so far, it appears that our IT program is performing well vis a vis demands on the system. John has done great job with existing staff but we may need additional staff to meet increasing demands e.g., mentoring program and LRS. The final report will address these growth issues. We also need more back up for certain staff positions if there is attrition. The report will be finished in order to circulate after the outside audit is performed and will be submitted in time for the May meeting. Nate inquired if there had been any computer hacking issues at the Bar and Rob responded that an outside audit will identify if there is a problem in this area. Lowry said that based on staff interviews and workload, work space is "splitting at the seams" in dealing with the increase in membership. He continued that the building space is becoming somewhat limited and there may be a building issue within 5-10 years.

4.4 Benefits Committee Report

Curtis Jensen distributed the Member Benefits report. He reported that one recommendation is to modify the Blomquist Hale fee structure vis a vis usage. Rod and Felshaw want to ascertain if Blomquist has made program changes as promised in previous meetings. John, Curtis, Nate, and Lowry are planning to meet with Blomquist before the May Commission meeting and will report back.

4.5 Long Range Goals and Values Strategic Plan Worksheet

Lowry said the strategic report indicates progress and asked Commissioners to please review the status updates.

4.6 Judicial Council Report

Postponed.

4.7 Paralegal Division Report

Sharon Anderson distributed invitations to the Paralegal Division luncheon to be held at the Little America on May 15th. Chief Justice Christine Durham will be the featured speaker. Sharon reported that the Paralegal Division has partnered with the Young Lawyers Division to participate in the Wills for Heroes event by soliciting notaries and witnesses. The Division also has instituted its own community service efforts by hosting the Professional Women Clothing Drive event. They would like this event to become an annual or biannual event by partnering with Junior League, Red Hanger and Henries Dry Cleaners. The Division is also offering classes at the library for women to assist with resume building. In response to Christian's inquiry, John will contact Shauna Powers (lawyer at Sharon's law firm) for John Becker publicity.

5. CONSENT AGENDA

By policy, the March 13, 2008 minutes are approved without amendment (Tab 8).

By policy, the Fee Dispute Resolution rule amendments were approved (Tab 9).

By policy, the successful Bar admittees were approved (Tab 10).

MEETING ADJOURNED AT 11:55 A.M.

NEW HANDOUTS DISTRIBUTED DURING MEETING:

- (1) Additional nominations for awards.
- (2) Young Lawyers Division Wills for Heroes Event outline.
- (3) Member Benefits Program Review report.
- (4) Paralegal Luncheon invitation.