

**BOARD OF BAR COMMISSIONERS  
DECEMBER 14, 2022 MEETING MINUTES  
Inn & Spa at Loretto, Santa Fe, NM**

<b>MEMBERS PRESENT:</b>	Allison H. Block-Chavez Aja N. Brooks Catherine A. Cameron Sean M. FitzPatrick Connie J. Flores Parker B. Folse Tomas J. Garcia David P. Lutz Carla C. Martinez	Mitchell Mender Jessica A. Perez Brett Phelps Linda Sanders Simone M. Seiler Olga Serafimova Benjamin I. Sherman Lucy H. Sinkular Carolyn A. Wolf
<b>MEMBERS ABSENT:</b>	Erin M. Atkins Daniel J. Behles Robert Lara Joseph F. Sawyer Elizabeth J. Travis	
<b>OTHERS PRESENT:</b>	Svitlana Anderson Kris Becker Ian Bezpalko Hon. Carl Butkus Kasey Daniel	Pam Moore David Powell Stormy Ralstin Richard Spinello

**I. CALL TO ORDER**

**A. Approval of October 21, 2022 Meeting Minutes**

Commissioner Block-Chavez made a motion to approve the October 21, 2022 meeting minutes; the motion was seconded and it passed.

**II. STRATEGIC PLANNING**

**A. 2023-2025 Three-Year Strategic Plan**

The 2023-2025 Three-Year Strategic Plan was included in the materials. Executive Director Richard Spinello reported that the main part of the plan didn't change; he started adding timelines and assigned tasks to various groups as well as a senior staff liaison to each of the core goals. He noted on page 6, action item 2—CLE, that he filled in 2.0 no-cost CLE credits for the membership, and Pam Moore will be talking about that in her presentation on the Professional Practice Group. That is open to discussion, if the Board wants to try to provide more or less no-cost CLE to the members, and once we start doing that, we'll market it so members will be aware that their licensing fee includes a certain amount of no-cost CLE.

President Wolf commented that she was disappointed in the implementation schedule for the case summaries and the idea for the interdepartmental work. She sees it as a lawyer-driven project and would suggest that the Appellate Practice Section, NREEL and someone from the Court of Appeals be involved, since we have to find a mechanism to get their decisions. Executive Director Spinello stated that we can include as many people as we need; it's not precluding the Board from forming a committee or assigning it to the Executive or Member Services Committee. President Wolf stated that she appreciates that the staff is loaded down, so if there's a way to move it

along quicker, she would support that. Executive Director Spinello stated that he sees the project in three phases, the first of which is to send the Appellate cases out to the membership, and he's already met with the staff attorney at the Appellate Court regarding that and will be seeking a meeting with the new Appellate Chief. The second phase is to get the case summaries written and sent out, and the third phase is the technical side and how we're going to provide that on a phone app or through a subscription. He estimated the project would take a year to set up, but we can certainly adjust as necessary.

### III. ACTION ITEMS

#### A. **Executive Session**

Commissioner Sherman made a motion to go into executive session; the motion was seconded and it passed. In open session, President Wolf reported that she and President-Elect Sherman spoke with Executive Director Spinello, and he accepted the new contract.

#### B. **Reappointment of BBC Director Lucy Sinkular to NM State Bar Foundation Board for a Three-Year Term**

Pursuant to the expiration of BBC Director Lucy Sinkular's term on the Bar Foundation Board at the end of the year, Commissioner Brooks made a motion to reappoint her to another three-year term; the motion was seconded and it passed.

#### C. **Board of Bar Examiners Application for Accredited Provider Status to Award Self Study Credit Under Rule 18-204 (C)(1) NMRA**

An application from the Board of Bar Examiners for Accredited Provider Status to Award Self Study Credit and Rule 18-204(C)(1) NMRA were included in the materials. General Counsel Stormy Ralstin reported that the rule was changed to add another category for MCLE credit for related legal services. The Board already approved applications for the Client Protection Fund Commission, Disciplinary Board, and the Ethics Advisory Committee. The BBE is requesting two hours of credit for each Character and Fitness hearing that board members participate in. Commissioner Martinez stated that it's a huge time commitment and not everyone goes to hearings; those that do are the more significant ones and it's a very involved process. General Counsel Stormy Ralstin stated that it's in keeping in line with what's been approved in the past and recommended that the Board approve the application. Commissioner Sherman made a motion to approve the Board of Bar Examiners application; the motion was seconded and it passed. Commissioner Serafimova abstained because she's on the BBE.

#### D. **Client Protection Fund Commission Appointment to Vacancy**

A vacancy was created on the Client Protection Fund Commission due to Jeff Baker going inactive, since active membership is a requirement of serving on the Commission. A notice was published in the Bar Bulletin, and one application was received from Don Anque. Commissioner Phelps made a motion to appoint Don Anque to the Client Protection Fund Commission for the remainder of the unexpired term through December 31, 2023; the motion was seconded and it passed.

#### E. **2023 Supreme Court Board and Committee Liaisons Appointments**

The 2023 Supreme Court Board and Committee liaisons roster was included in the materials. Commissioner Perez made a motion to approve the liaison appointments; the motion was seconded and it passed. There was one vacancy on the Children's Court Rules Committee, and we'll contact the new commissioners for a volunteer.

### IV. COMMITTEE REPORTS

#### A. **Executive Committee Report**

President Wolf reported that the committee met on December 5 and discussed the following:

1. The committee reviewed and approved the agenda for this meeting.
2. Client Protection Fund Commission Request Regarding Random Audits of Trust Accounts

The Board referred this issue to the Executive Committee. The committee decided that it needed more information and created a special committee to be comprised of the Executive Committee, representatives from the Disciplinary Board and the Client Protection Fund Commission, and any other volunteers from the Board.

Commissioner Sherman made a motion to ratify the action taken by the Executive Committee; the motion was seconded and it passed.

## **B. Finance Committee Report**

In Secretary-Treasurer Erin Atkin's absence, Commissioner Brooks reported on the Finance Committee meeting, which was held prior to the Board meeting:

1. Approved the October 20, 2022 Meeting Minutes;
2. Reviewed and recommended acceptance of the October 2022 Financials; Commissioner Brooks made a motion to accept the financials and the motion passed;
3. Reviewed amendments to the draft Reserve Policy and recommended approval. Director of Finance Powell reviewed the changes to the Policy, including renaming the funds capital reserve and operating reserve, removing the previously set limits on the reserves, and a new funding source where if there is a surplus of revenues over expenses, the committee would make a recommendation as to how much of that surplus would be funded into each of the different reserve accounts. Additionally, these are Board-designated asset accounts which means that the Board retains the ability to redesignate them in any way and shift from Board designated operating reserves to board designated capital reserve or remove the funds and make them non-board designated. Director of Finance Powell noted that the Bar Center Committee will be looking at large projects, which may require more money than the capital outlay budget would allow, so they removed the limit and the Board can increase the funding for those projects if more money is needed. Commissioner Brooks made a motion out of Finance Committee to approve the amended Reserve Policy, and the motion passed;
4. Reported that no challenges were received to the 2023 Budget Disclosure;
5. Recommended approval to remove Commissioner Martinez and add Commissioner Brooks as a signer on the bank accounts; Commissioner Brooks made a motion out of Finance Committee to approve the updates to the bank account signers, and the motion passed;
6. 2023 Licensing Renewal Report; as of December 13, there were 857 active and 448 inactive members who completed their licensing requirements, and 669 inactive fee waiver confirmation letters were returned. For MCLE, there were 4,327 members compliant, 3,322 non-compliant, and 456 members who were exempt; and
7. CPF, ATJ and JLAP Third Quarter 2022 Financials were provided for informational purposes only.

## **C. Policy and Bylaws Committee Report**

Policy and Bylaws Committee Co-Chair Sherman reported that the proposed Licensing Renewal and Waiver Policies were discussed at the October 21<sup>st</sup> Board meeting and there were some questions whether or not the Board should have a blanket policy that it does not waive MCLE requirements, so it was referred back to the committee. The committee met on November 5 and added the phrase "a late fee" to clarify that it's not a waiver of MCLE requirements in paragraph 4. The new Rule 24-101, Rule 24-102, and the meeting minutes from 2010 and 2011, which provided background on the blanket rule of not waiving MCLE, were included in the materials. Co-chair Sherman made a motion out of committee to approve the revised Licensing Renewal and Waiver Policies with the change to paragraph 4, and the motion passed with one nay.

## **D. Member Services Committee Report**

In Chair Liz Travis' absence, the Member Services Committee report was emailed to the Board. The committee met on November 15, and President Wolf reported that they wanted to do something similar to what the Committee

on Sections did with having the section chairs come to the committee and provide a report; however, they had difficulty getting in touch with all of the committee chairs, so they asked the staff members assigned to the standing committees to attend the meeting and provide a report on each of the committees, which was very useful. The committee also decided to send a survey out to the committee chairs, and it will be meeting to review the results.

#### **E. Bar Center Committee Report**

Bar Center Committee Chair Tomas Garcia reported that NREEL requested that they be permitted to display plaques in the building. Several sections of the State Bar present annual awards and they thought there might be additional requests to displays plaques, so the Bar Center Committee decided to create a policy that could be applied uniformly going forward to use as a guide when we receive these requests. Chair Garcia made a motion out of the Bar Center Committee to approve the policy, and the motion passed.

### **V. INFORMATIONAL ITEMS**

#### **A. Professional Practice Program New Rule 24-112**

In Bill Slease's absence, Executive Director Spinello reported that the new Professional Practice Program Rule 24-112 will become effective the end of this year. It authorizes the work of the Professional Practice Program and it provides a confidentiality provision, which was very important so that they could get into issues with individual attorneys and law firms and the self-assessments and practice management consultations, so now there is some protection. We'll now be able to join the national group of bar associations that have these types of professional practice programs, since the confidentiality rule is a requirement to join. It also provides for immunity for the Board and the staff; they're not subject to subpoena and it confirms that we're not providing legal advice or forming an attorney client relationship. This is the first time the Supreme Court has approved this type of State Bar program with confidentiality in place.

#### **B. Professional Programs Group 2023 Roadshow Presentation**

Professional Programs Group Director Pam Moore reported that the PPG had a goal for 2023 to have face-to-face time with the legal community around the state and provide information on the resources they offer, which was formerly a goal of the Lawyers Assistance Program before COVID. The PPG is made up of LAP, PPG, Judicial Wellness Program, and Equity in Justice. They want to connect with attorneys beyond Albuquerque and are reaching out to all the districts to come out and put on free CLEs and talk to the members. They're trying to just do day trips, and they have the Dona Ana County Bar scheduled for February, they're working to schedule San Juan and McKinley County Bar in March, and they'll be in Roswell in June. She asked for the Board's help in getting groups of lawyers together in their area.

#### **C. Intellectual Property Law Section Update**

Svitlana Anderson attended the meeting to provide an update on the Intellectual Property Law Section. They established the IP Fair in 2018 and assisted 200 vendors and start-ups. Prior to COVID, it was in person. They tried a hybrid event this year to reach more people and it was a huge success. It's a large undertaking since they match volunteer attorneys with students and with respective clients. They were the recipient of the Outstanding Legal Program Award at the State Bar Annual Meeting this year. They coordinated a full-day CLE with the U.S. Patent and Trademark Office. Two chief judges spoke, and they were able to get the Trademark Trial Appeal Board to do a live hearing streamed to the Bar Center in Albuquerque. On December 28, the NM Lawyer publication will be coming out with four articles written by members of the IP Section.

#### **D. Client Protection Fund 2021 Annual Report**

The Client Protection Fund 2021 Annual Report was included in the materials for informational purposes only. Executive Director Spinello reported that the CPF Commission distributed one million dollars to clients since the start of the fund, as a professional group who recognizes the need, we want to acknowledge and celebrate that in the notices on the CPF that we publish in the Bar Bulletin.

## **E. Board of Bar Commissioners Election Results**

There were nine positions that expired this year; three districts were contested, so elections were held in those districts. The elections closed on November 30 and were certified by President Wolf, President-Elect Sherman and Secretary-Treasurer Atkins; the results are below:

1. Second Judicial District – Lucy H. Sinkular and Steven S. Scholl
2. Third and Sixth Judicial Districts – Rosenda Chavez-Lara, Connie J. Flores, and David P. Lutz
3. Seventh and Thirteenth Judicial Districts – Jessica A. Perez and Simone M. Seiler
4. Fifth Judicial District (uncontested; elected by acclamation) – Parker B. Folse
5. Eleventh Judicial District (uncontested; elected by acclamation) – Joseph F. Sawyer

## **F. State Bar President Report**

President Wolf reported on the following:

1. Public Lawyer Award

She spoke at the public lawyer of the year award ceremony; it was a nice event and the recipient was a lawyer she had worked with at the AG's office.

2. Meeting with UNM Law School Dean

President-Elect Sherman, Executive Director Spinello and she met with Dean Camille Carey and discussed updates on the law school and the State Bar.

3. Senior Lawyers Division Memorial Scholarship Reception

She attended the SLD Memorial Scholarship Reception; UNM Law School Dean Camille Carey and Terry Revo from the SLD provided remarks.

## **G. State Bar President-Elect Report**

President-Elect Sherman reported on the following:

1. 2023 Meeting Schedule—February 24, May 12, July 27 (Hyatt Regency Tamaya, in conjunction with the Annual Meeting), October 13, December 6 or 13 (Santa Fe, TBD by the Supreme Court)
2. 2023 BBC Internal Committees; the sign-up sheet was passed around at the October meeting for volunteers and it was included in the materials.

## **H. NM State Bar Foundation President Report**

NM State Bar Foundation President Judge Butkus reported that the Board met on November 3 and he was reelected to another year as president, Jerry Dixon was reelected as President-Elect, Stefanie Davis was reelected as Secretary-Treasurer, and Aja Brooks was installed as Immediate Past President. The fundraising consultant provided a preliminary report and a presentation on fundraising at the November Board meeting, and he will be providing his final report soon. He introduced Legal Services Director Kasey Daniel who manages the new Modest Means Helpline.

1. Expanded VAP Program Report

Kasey Daniel reported on the Modest Means Helpline, which was formerly called the Expanded VAP Program. She stated that there are about 600 lawyers in the pool and they come through NM Legal Aid. If people weren't eligible for Legal Aid or Legal Aid had a conflict, then they previously had nowhere else to go. They've hired a full time attorney and a Spanish speaking intake coordinator. Legal Aid receives

federal funding from the Legal Services Corporation and they can't help undocumented immigrants, so their intake people were thrilled that this program could take them. The Supreme Court asked that a press release be sent out and the local news channels picked it up, so they were inundated with calls after that. The bulk of the calls are domestic relations. They also receive a lot of calls on landlord tenant issues and evictions. About a third of their calls are from court staff. They don't do criminal or torts or ongoing litigation. The Modest Means Helpline and LREP will be open through the holidays. General Counsel Ralstin noted that LREP and the MMH are the only two programs that provide free civil legal services for people in NM who are above 200% of poverty.

## **I. Executive Director Report**

Executive Director Spinello's written report was included in the materials. He highlighted items, including the negotiations with CLA; they went back to CLA with 15 percent and they accepted, so they'll be sending the engagement letter soon. We've been working with our AMS on a live demographics page; it's not real time, but it updates every night and will preview it for the board soon.

## **J. State Bar Representative Reports**

### **1. Senior Lawyers Division**

SLD Delegate Dan Behles wasn't in attendance, so there was no report from the Division.

### **2. Young Lawyers Division**

YLD Chair Jessica Perez reported that the Division had another Wills for Heroes event in Albuquerque; 65 wills were done and it was a successful event. They're still working on planning for next year and what their programming will look like with more in-person events. Their executive board had its elections, and Damon Hudson will be the chair next year. She will be coordinating the public service projects in outlying areas next year. They have some open positions on the board as well as some section liaison positions.

### **3. Paralegal Division**

Paralegal Division Liaison Linda Sanders reported that they filled three director positions and two of the three members are outside of the Rio Grande corridor. They held their December full day CLE in conjunction with the State Bar; it was a hybrid event and was very well received with over 60 participants. Eight of their members supported the Wills for Heroes event the previous weekend. She will be continuing as chair since she was acting chair this year.

### **4. Bar Commissioner Districts**

Commissioner Mender reported that they held an event in the Ninth and Tenth Judicial Districts; they tagged along with their pro bono day and did a lunch and CLE for their members.

### **5. Supreme Court Board and Committee Liaison Reports**

Commissioner FitzPatrick reported that the Well-Being Committee had a 5K Pumpkin Chase with the SLD and YLD with 40 participants. The Well-Being Committee is starting a campaign next year on well-being from the inside out. The Rules of Civil Procedure Committee are completely revamping the rules.

### **6. ABA House of Delegates Report**

There was no report provided.

## **VI. OTHER BUSINESS**

### **A. Presentation of Outgoing Commissioner Awards**

President Wolf presented awards to commissioners with terms expiring the end of the year, including: Immediate Past President Carla Martinez in the Second Judicial District, Catherine Cameron in the Seventh and Thirteen Judicial Districts, and Jessica Perez as the 2022 YLD Chair. Robert Lara in the Third and Sixth Judicial District, who was appointed to a judgeship, was unable to attend the meeting to receive his award. A gift was also presented to President Wolf for her service as president this year.

### **B. New Business**

There was no new business.

### **C. Adjourn**

Commissioner Martinez made a motion to adjourn the meeting at 2:20 p.m.; the motion was seconded and it passed.