

**BOARD OF BAR COMMISSIONERS
December 13, 2018 MEETING MINUTES
NM Supreme Court, Santa Fe, NM**

MEMBERS PRESENT:	Joshua A. Allison Erin M. Atkins Christina G. Babcock Aja N. Brooks John P. Burton Ernestina R. Cruz Gerald G. Dixon Sean M. FitzPatrick Judge Kevin L. Fitzwater (ret.) Mick I. R. Gutierrez Scotty A. Holloman	Jared G. Kallunki Robert Lara (phone) David P. Lutz Carla C. Martinez Clara Moran Wesley O. Pool Joseph F. Sawyer (phone) Benjamin I. Sherman Elizabeth J. Travis Constance G. Tatham (phone) Carolyn A. Wolf
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MEMBERS ABSENT: None

STAFF PRESENT:	Kris Becker Evann Kleinschmidt David Powell	Stormy Ralstin Richard Spinello
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OTHERS PRESENT:	Ian Bezpalko Parker Folse Dana Hardy	Lynette Rocheleau Sonia Russo
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A. Call to Order

President Pool called the meeting to order at 10:35 a.m.

1. Approval of October 12, 2018 Meeting Minutes

Commissioner Travis made a motion to approve the October 12, 2018 meeting minutes as submitted; the motion was seconded and it passed.

I. STRATEGIC PLANNING

A. Bar Bulletin Transition Timeline and Presentation

Director of Communications Evann Kleinschmidt reported on the transition timeline for the *Bar Bulletin* and went through the phases of implementation. The first phase included problem solving and surveying the members and improving the electronic experience, redesigning several sections, and determining other means to communicate the information. The second phase included the announcement and notifying members, advertisers and others who had previously scheduled something in an upcoming issue that will need to be rescheduled. The third phase will be implementation. The new schedule of printing every other week begins January 2019 with 24 issues being printed in hard copy and the final two being published electronically. The fourth phase will be analysis and course correction as needed. Ms. Kleinschmidt also provided a presentation on the online version and features of the redesigned Bar Bulletin and the new design for the weekly ENews, which will have more information previously included in the *Bar Bulletin*.

B. Proposed Revisions to the Financial Policies

The Finance Committee reviewed and recommended approval of the revised financial policies. Secretary-Treasurer Cruz made a motion to approve the revised policies; the motion was seconded and it passed.

II. COMMITTEE REPORTS

A. Finance Committee Report

The Finance Committee met prior to the Board meeting and Secretary-Treasurer Cruz reported on the committee's discussion and recommendations regarding the following:

1. Approved the October 11-12, and November 16, 2018 Meeting Minutes;
2. Accepted the October 2018 State Bar Financials;
3. Reported that the 2019 Budget Disclosure was published on the website with 30 days' notice for challenges and no challenges were received;
4. Received a contribution / donation request for a court video project of the Supreme Court's Innovation Team to introduce litigants and other citizens to the courthouse and basic court processes; the cost of the project is unknown at this time, but the Court will need seed money to start the project and the committee recommended approval to use \$1,500 from the donations made to the Judge Elizabeth Whitefield Memorial Fund in the NM State Bar Foundation and any future donations that come in for the fund and \$2,000 from the Board's outreach line item in the State Bar for a total of \$3,500 for the project; Commissioner Cruz made a motion to approve using \$2,000 from the outreach line item for the project and the motion passed. The \$1,500 of the Judge Elizabeth Whitefield Memorial Fund donations will be approved in the Bar Foundation meeting.
5. Discussed a credit card for the new JLAP program director and recommended approval; Commissioner Cruz made a motion to approve the recommendation and the motion passed;
6. Discussed updating check signers on all bank accounts and recommended approval to remove Commissioner Holloman and add Commissioner Allison; Commissioners Dixon, Pool and Martinez and Executive Director Richard Spinello will remain as signers; Commissioner Cruz made a motion to approve the recommendation and the motion passed;
7. Provided the CPF, ATJ and JLAP Third Quarter Financials and the 2019 JLAP Budget as informational items only;
8. Reported that a Jot Form was created for the 2019 Dues and Licensing and an email was sent out notifying the membership that the dues are now live; and
9. Received a request from the Appellate Practice Section for a carryover of approximately \$1,700, in addition to the section's 2018 dues revenue, to be used for keynote speakers for the Appellate Practice Institute in 2019 and recommended approval; Commissioner Cruz made a motion to approve the section carryover request and the motion passed.

B. Executive Committee Report

President Pool reported on the following Executive Committee meetings:

1. The committee met on November 7 to review the *Bar Bulletin* transition timeline and received a presentation on the online version and features of the redesigned *Bar Bulletin*.
2. The committee met again on December 5 to review and approve the meeting agendas.

C. SOPA Committee Report

Commissioner Allison reported that the SOPA Committee met prior to the Online Access Subcommittee (OAS) meeting and discussed issues with the SOPA Policy. He attended the OAS meeting to present the committee's issues. He noted that Justice Maes is the chair of the Court's SOPA Committee and will be going off at the end of the year upon her retirement from the Supreme Court.

D. Appellate Practice Section Report

Chair Dana Hardy attended the meeting to report on the Appellate Practice Section. One of their main activities this year was the Appellate Practice Institute with Judge Harris Hartz as the keynote speaker, as well as several other judges. She thanked the Board for approving the carryover request for next year's Institute. The Section also held a candidate forum for the Court of Appeals at the State Bar Center and via webcast, and sends periodic newsletters on appellate practice issues. They held brown bag luncheon programs with members of the judiciary and participated in the UNM Summer Law Clerk Mock Trial Camp and Mediation Program. They are working on ways to increase participation in their Pro Bono Program for pro se appellate litigants which is co-sponsored by the Volunteer Attorney Program.

III. OTHER ACTION ITEMS

A. Executive Session / Executive Director Evaluation and Compensation Committee Report and Recommendations

The Board went into executive session to discuss the Executive Director Evaluation and Compensation Committee report and recommendations.

B. Client Protection Fund Commission Appointment of Two Members for Three-Year Terms

Two vacancies existed on the Client Protection Fund Commission for three-year terms, so a notice was published in the *Bar Bulletin*. Erin Anderson and John M. Caraway submitted letters of interest for the vacancies. Commissioner Kallunki made a motion to appoint Erin Anderson and John M. Caraway to the Client Protection Fund Commission for three-year terms; the motion was seconded and it passed.

C. NM Access to Justice Commission Appointment of One Member for a Three-Year Term

One vacancy existed on the NM Access to Justice Commission for a three-year term, so a notice was published in the *Bar Bulletin*. Letters of interest were received from the following:

1. Kenneth (Kip) Bobroff
2. Kaleb W. Brooks
3. Gary D. Housepian
4. Kenneth J. Swain

Following a vote by secret ballot, Kenneth (Kip) Bobroff was appointed to the NM Access to Justice Commission for a three-year term.

D. Appoint a Member from the Sixth Bar Commissioner District

No nomination petitions were received for the position in the Sixth Bar Commissioner District, so a notice was published in the *Bar Bulletin*. Letters of interest were received from the following:

1. Lewis C. Cox, III
2. Michael Eshleman
3. Parker B. Folse

Following a vote by secret ballot, Parker B. Folse was appointed to the Board in the Sixth Bar Commissioner District through December 31, 2019, and the position will be included in the next regular election.

E. Appoint a BBC Representative to the Board of Editors

A vacancy existed on the Board of Editors for a Board of Bar Commissioners representative. Commissioners Burton and Tatham expressed interest in the position prior to the meeting. Following a vote by secret ballot, Commissioner Tatham was appointed to the Board of Editors for a two-year term.

F. Supreme Court Board, Committee, and Commission Liaison Appointments

A list of Supreme Court Board, Committee, and Commission liaisons was distributed for commissioners to volunteer to serve as liaisons in 2019; once the appointments are finalized, it will be forwarded to the Supreme Court.

G. Annual Review of Sections and Committees Pursuant to the State Bar Bylaws, Article IX, Section 9.4

Pursuant to Article IX, Section 9.4, of the State Bar Bylaws, sections and committees scheduled for sunset in a given year must submit a petition to continue. The following were scheduled for review this year and submitted petitions for continuance, which were included in the materials:

- Committee: Committee on Diversity in the Legal Profession
- Sections: Bankruptcy Law Section
Employment and Labor Law Section
Family Law Section (did not submit an annual report for 2017)
Tax Section

Commissioner Burton made a motion to continue the committee and all four sections; the motion was seconded and it passed.

IV. INFORMATIONAL ITEMS

A. Discuss BBC Representative on the ATJ Commission

In follow up from the October meeting at which Judge Nan Nash requested more Board participation on the ATJ Commission, Secretary-Treasurer Cruz will be the new representative on the ATJ Commission as the President-Elect for 2019. President-elect Dixon volunteered to continue to attend their meetings next year and Commissioner Brooks is on a working group of the Commission and will also continue to attend and participate in their meetings. Staff will request the Commission to include all three commissioners in their meeting notices.

B. President Report

President Pool reported on the following:

1. Innovation Team / ODR / LLT Updates

The Supreme Court's Innovation Team ("I" Team), which oversees the Online Dispute Resolution (ODR) Working Group, is rolling out ODR immediately in three districts for complaints up to \$50,000. The "I" Team also oversees the Limited License Legal Technicians (LLTs) Working Group; LLTs handle the work of lawyers in rural areas. The LLT Working Group met with representatives of the Washington State Bar to discuss their LLLT program. The AOC is

administering the ODR Working Group, and the Court has asked the State Bar to administer the LLTs. The third project of the "I" Team is the Social Media / Court Video project for self-represented litigants to help them get through the policies and procedures of the court system.

2. Judicial Nominating Commissions

The State Bar president is required to chair the committees and assist the judges in balancing the Judicial Nominating Commissions by political parties and demographics. He chaired 12 Judicial Nominating Commission Balancing Committees this year.

3. Other

The State Bar president serves on the Compilation Commission by court rule. He reported that the Commission elected to go web based with their publications instead of hard copy due to the cost of printing. He also served on the Compensation Commission by rule, which was able to get raises for the judiciary through the legislature.

C. President-Elect Report

President-Elect Dixon reported on the following:

1. 2019 Meeting Dates

The Board of Bar Commissioners meeting dates for 2019 are February 22, May 17, August 1 (Hotel Albuquerque in conjunction with the Annual Meeting; Finance will meet on July 31), October 4, and December 11 (Supreme Court, Santa Fe).

2. 2019 Internal Committees

A sign-up sheet was distributed for commissioners to volunteer, and the list will be finalized following the meeting.

3. Meeting with Chief Public Defender

President-Elect Dixon and Executive Director Richard Spinello met with the chief public defender. This is the fifth time they have come to the State Bar requesting assistance, although it hasn't been clear how the State Bar can assist. They're understaffed and underfunded and have more clients and cases than they have attorneys to handle. They filed a lawsuit which was dismissed by the Supreme Court and they're gearing up to file another lawsuit and trying to put a better case together, which seems to be their best option.

4. Local Bar Mixer in Las Cruces

One of his goals for next year is to reach out to areas other than Albuquerque and Santa Fe to find out what lawyers around the state want and need and how the State Bar can help them practice law and deliver legal services better. They held a local bar mixer in Las Cruces in November, which was cosponsored by the Trial Practice Section and YLD, and it was well attended with 20 participants; he noted that Las Cruces has the third largest constituency, but they don't feel connected to the State Bar.

5. Executive Committee and Senior Staff Retreat Report

President-Elect Dixon provided the highlights from the Executive Committee and Senior Staff Retreat last week, which included finalizing the final two sections of the financial policies, an update and discussion on the mandatory bar associations, a presentation on the *Bar Bulletin* and a debriefing on the Annual Meeting. He noted that his focus next year will be on outreach, pro bono and making lawyers more aware of pro bono opportunities, in addition to wellness and

stress and how to help lawyers get physically and mentally healthy. There were also some quick hits on various topics, including how to attract more members to the Board and serve in an officer position, creating a UNM student bar liaison on the Board, guests at BBC meetings, and open forums at meetings. Secretary-Treasurer Cruz reported that we're planning a full Board retreat next fall, and we will be looking at some of the issues the Board has been discussing this year.

6. 2019 CLE Trip to Cuba

The CLE Trip for 2019 will be to Cuba over Veteran's Day weekend; we're working with a company to finalize the details and will be publishing information on the trip soon. The State Bar will have no risk financially.

D. Executive Director Report

Executive Director Richard Spinello reported on the following:

1. Legal Specialization Order

The Court forwarded the Order revising the Rules of Legal Specialization to permit the Board to certify specialists, if the Board decides to create a program. The wind-down process for the program included refunding those who were applying to be specialists when the Court eliminated the program and providing a one-year extension for those expiring in 2018. The Regulatory Committee will be meeting with Jan Gilman-Tepper in January to discuss the previous program.

2. Mandatory Bar Update

In light of recent court decisions, the executive directors of all of the mandatory bar associations held a teleconference last week and circulated a survey among themselves to gain some basic information about how they each function; they all function very differently with some mandatory bars having no regulatory functions and some having all the regulatory functions. This will be discussed more at the NABE Midyear Meeting in January and at the Western States Bar Conference in March.

E. Bar Commissioner Division / District Reports

1. Senior Lawyers Division

SLD Delegate Jack Burton reported that the Division met last week and is looking for ways to get more lawyers outside of Albuquerque involved in the Division. Retired Judge Michael Bustamante will chair the Division again next year. Annette Dubois will continue to be the vice chair and liaison to the Young Lawyers Division. The Division will be the sponsor of the Family Law Clinic. The rule change regarding the Division membership will be sent to the Supreme Court, along with some other rule changes, in January.

2. Young Lawyers Division

YLD Chair Sean FitzPatrick reported that they have done Wills for Heroes events in Artesia and Farmington and are planning another event in Rio Rancho; he noted that participation has dropped off, so they will be monitoring the success of future events. They held their annual Holiday Happy Hour for the YLD/UNM School of Law Mentorship Program and will conduct their Mock Interview Program in advance of the Committee on Diversity Art Jaramillo Clerkship Program in January or February. He requested commissioners to e-mail him if they're interested in conducting an interview. They will also be holding a Veteran's Clinic in Las Cruces and sponsored a 1L Boot Camp at the law school. They will host a ski day in January as part of their Fit2Practice initiative.

3. Paralegal Division

Paralegal Division Liaison Christina Babcock reported that the Division hasn't met since their last Board meeting; they held their Paralegal Institute cosponsored with the State Bar last week and it was well attended.

4. Supreme Court Board / Committee / Commission Liaison / Bar Commissioner District Reports

Commissioner Gutierrez reported that they held their first Veteran's Clinic, co-sponsored by the YLD, on November 30 in Las Cruces; Commissioners Atkins and Brooks assisted and it was well attended. Commissioner Brooks reported that they held a real I.D. Legal Fair last month; it was the third one they held and it went very well with 244 people and 280 at the previous one. She will be starting a new position at the Second Judicial District Court in January, but the Volunteer Attorney Program is planning to replicate the program and will do it in other districts.

Commissioner Brooks served as the liaison to the Code of Professional Conduct Committee this year; the committee looked at the succession planning and misconduct rules and made some changes to both of those rules, which were published for comment and the comment period just ended.

Commissioner Fitzwater reported that he served as the liaison to JPEC and spent only a short amount of time in their meetings, since they're confidential and asked whether a liaison should be appointed to that commission. Executive Director Richard Spinello stated that the Court is going to be making all of the liaisons full board positions next year, and we will be drafting a rule change for the Court to make that change.

V. OTHER BUSINESS

A. Presentation of Outgoing Commissioner Awards

President Pool presented plaques to commissioners with terms expiring this year, which included Paralegal Division Liaison Christina G. Babcock, Young Lawyers Division Chair Sean M. Fitzpatrick, and Immediate Past President Scotty A. Holloman from the Sixth Bar Commissioner District. President-Elect Dixon presented a gift to President Pool for his service as president this year.

B. New Business / Adjourn

There being no new business, Commissioner Holloman made a motion to adjourn the meeting at 2:50 p.m.; the motion was seconded and it passed.

VI. PARKING LOT (issues for future planning and discussion)

A. Client Protection Fund Commission Recommendation Regarding a Mandatory Fee Arbitration Program for Lawyer / Client Fee Disputes