

**BOARD OF BAR COMMISSIONERS
JULY 27, 2023 MEETING MINUTES
Hyatt Regency Tamaya Resort & Spa, Santa Ana Pueblo, NM**

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| MEMBERS PRESENT: | Erin M. Atkins
Daniel J. Behles
Allison H. Block-Chavez
Aja N. Brooks
Rosenda Chavez-Lara
Sean M. FitzPatrick
Connie J. Flores
Parker B. Folse
Tomas J. Garcia
Damon J. Hudson
David P. Lutz
Mitchell Mender | Jessica A. Perez
Brett Phelps
Linda Sanders
Joseph F. Sawyer
Steven S. Scholl
Simone M. Seiler
Olga Serafimova
Benjamin I. Sherman
Lucy H. Sinkular
Elizabeth J. Travis
Carolyn A. Wolf |
| MEMBERS ABSENT: | None | |
| OTHERS PRESENT: | Chief Justice C. Shannon Bacon
Kris Becker
Ian Bezpalko
Hon. Carl Butkus
Bill Kramer | Pam Moore
David Powell
Stormy Ralstin
Bill Slease
Richard Spinello |

I. CALL TO ORDER

A. Approval of May 12, 2023 Meeting Minutes

Commissioner Wolf made a motion to approve the May 12, 2023 Meeting Minutes; the motion was seconded and it passed.

II. STRATEGIC PLANNING

A. Review of Item #1, Aid the Courts in Improving the Administration of Justice, in Rule 24-101(A) NMRA, Rules Governing the New Mexico Bar

Chief Justice Shannon Bacon attended the meeting to discuss Rule 24-101(A) NMRA, Rules Governing the New Mexico Bar. President Sherman explained that as part of our strategic plan, at each meeting the Board will be reviewing the different parts of the rule that created the Bar and its mission and goals. The first item is to aid the courts in the administration of justice, and the Board would like to know what that means to the Court and whether we're doing it well or could be doing anything better. Chief Justice Bacon stated that the administration of justice is something that the Court and the judiciary talk about all the time and what that means. Access to Justice and procedural fairness are a big focus of the courts right now, and she discussed details of the current efforts in those areas.

She noted that the State Bar has always been an incredible partner for the courts, and she's very pleased with the implementation of the Modest Means Helpline. The biggest concern is that it's not enough. We need to create paths into the judicial system that are not focused on attorneys providing pro bono and look at alternatives to those who can assist in court. The Court is creating a commission to study this issue, and President Sherman has been

asked to serve on it and has also identified other practitioners to serve. Depending on what the commission decides, if there's a licensing and reporting piece to it, the Court would want the State Bar to manage it. They're working with the National Center for State Courts which is the clearinghouse for these types of programs.

She also talked about administrative justice and procedural fairness. It's different than civil procedure; it entails how lawyers conduct themselves in interacting with clients and in the courtroom. The Court is concerned about what the pandemic has done to professionalism in the courtroom and the decorum in Zoom hearings. Figuring out how we can collaboratively coordinate what needs to be established in the courtroom is a priority. The Court is very committed to keeping the online option for court appearances and wants to look at the rules for a possible rule change regarding Zoom appearances. President Sherman suggested contacting the law school to discuss developing a class for what it means to appear in court by video. Since remote court appearances are here to stay, we can encourage voluntary compliance of members, which will create better awareness. The Professional Practice Program is doing a CLE during the Annual Meeting and can help develop those skills for attorneys as well.

Chief Justice Bacon asked if the Board had concerns about the court or if there is anything that they can do better from the Board's or their constituents' perspective. Commissioners suggested a customer service standardized training for the court staff, as well as additional judges with additional training for them. The Court has a commission that's focused on recruitment and retention of judges. They are also looking at the judicial nominating commission process; in every other commission-based state, the Supreme Court and the State Bar handle the process. President Sherman noted that in some of the judicial districts, balancing is almost impossible. The process isn't consistent with the Constitution, which requires standing commissions for the Appellate Courts, and the Supreme Court is supposed to create the rule on commissions and will be creating standing commissions in all districts. There will also be a training and a standardized set of questions for the commissions. Changing the process from the law school requires the legislature, so it will take some time.

Chief Justice Bacon expressed interest in having an annual conversation with the Board, whether it's the Chief or their designee, to maintain the communication between the Court and the Board. Following the discussion, President Sherman asked the Board if the language to aid the courts in the administration of justice needed to be tweaked or just revisited and discussed periodically. The Board determined that the language is general enough, and there will be an annual conversation with the Court to discuss it. Commissioner Chavez-Lara stated that we also need to bring these issues to the local level and talk to the local judges to find out how we can help all of those communities and suggested meeting with the judges during the Judicial Conclave when it's held jointly with the Annual Meeting.

At the next meeting, the Board will look at item #2 of Rule 24-101(A) NMRA

B. 2023-2025 Three-Year Strategic Plan

Executive Director Spinello reported that there aren't any updates to the plan since the last meeting, but he wanted to update the Board on the project with the appellate case summaries. After the last meeting, we received the go ahead from the Appellate Court to publish the case summaries. The cases come in the day they are released, and staff puts them into a template that the Court approved. It's been working well and we've gotten a lot of positive comments. The backlog of cases has been published, so the cases that are coming out now are the ones we receive daily. We're going to meet with the Chief and Chief Clerk of the Court of Appeals in a couple of months to see how it's going from their perspective.

III. ACTION ITEMS

A. Draft MOU Indemnity Clause

The indemnity clause in the Memorandum of Understanding between the State Bar and the Bar Foundation was revised to clarify each organization's indemnification, and the Bar Foundation Board approved it at its April meeting. Commissioner Sinkular made a motion to approve the revised indemnity clause; the motion was seconded and it passed.

B. 2024 Officer Nominations

Commissioner Wolf nominated Commissioner Brooks as President-Elect, and the nomination was seconded. No other nominations were received. Commissioner Atkins made a motion to close nominations; the motion was seconded and it passed. Commissioner Brooks was elected President-Elect for 2024 by acclamation. Commissioner Atkins nominated Commissioner Block-Chavez as Secretary-Treasurer, and the nomination was seconded. No other nominations were received. Commissioner Sinkular made a motion to close nominations; the motion was seconded and it passed. Commissioner Block-Chavez was elected Secretary-Treasurer for 2024 by acclamation.

IV. COMMITTEE REPORTS

A. ATJ Fund Grant Commission – 2023-2024 Grant Awards

President Sherman reported that the ATJ Fund Grant Commission met on May 16. It meets annually to review the proposals submitted by the civil legal service providers. The money comes from the interest earned on IOLTA accounts, Pro Hac Vice registrations and attorney donations on the licensing form. A total of \$1.2 million dollars was awarded to nine legal service providers.

B. Executive Committee Report

President Sherman reported on the Executive Committee meetings as follows:

June 8th Meeting:

1. Approved the Annual Awards Committee’s recommendations for the 2023 recipients; and
2. Reappointed Shasta Inman as the young lawyer representative to the ABA House of Delegates for a two-year term.

July 17th Meeting:

1. Reviewed and approved the agenda for this meeting; and
2. Discussed the Committee on Women and the Legal Profession issues with their Pamela Minzner Award.

The committee had an in-depth discussion regarding the award and whether a policy should be created whether awards should be rescinded, and the motion out of committee was to refer it to the Policy and Bylaws Committee to explore creating a policy regarding committee awards in general, both rescinding and giving, for the Board’s approval. The Committee on Women and the Legal Profession already had a special meeting scheduled and we let them know that we’re working on creating a policy. The other motion was to inform them that if they vote to create a policy or vote to rescind the award, they will need to bring that to the Board. The Policy and Bylaws Committee will be meeting on September 27.

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

C. Joint Meeting of State Bar and Bar Foundation Executive Committees Report

President Sherman reported that pursuant to the MOU, the two boards are required to have two joint Executive Committee meetings per year. They met on June 14 and discussed the makeup of the Foundation Board. The BBC appoints all members of the Foundation and has a majority makeup of its Board, so it’s important to ensure that the BBC directors on the Foundation Board are fully dedicated to the Foundation, and that we also maintain the related party status. Judge Butkus noted that it’s good to have the communication between the two boards and for the presidents to attend each organization’s meetings.

D. Finance Committee Report

The Finance Committee met the day before the Board meeting, and Secretary-Treasurer Brooks reported on the following:

1. Approved the May 12, 2023 Meeting Minutes;
2. Accepted the June 2023 Financials; Secretary-Treasurer Brooks noted a couple of items, including the licensing late fee penalties were under budget and the resource deskbook was over budget; Director of Finance Powell reported that it's difficult to predict licensing late fees when we prepare the budget, and the resource deskbook cost more than we anticipated due to the increased paper costs. Commissioner Brooks made a motion out of committee to accept the June 2023 Financials, and the motion passed;
3. Provided the CPF, ATJ and JLAP Second Quarter 2023 Financials for informational purposes only;
4. Provided the draft Audit RFP and timeline and noted that pursuant to our policies, we have to put out an audit RFP every six years, and this was the sixth year with CLA. The only change was to replace Richard Spinello with Stormy Ralstin. Secretary-Treasurer Brooks made a motion out of committee to approve the draft Audit RFP with the change, and the motion passed. A doodle poll will be sent out to schedule a special meeting of the joint State Bar and Bar Foundation Audit Committees to interview the candidates and select an auditor. Management will vet the proposals and then bring back 3-5 finalists; and
5. Provided a letter from UNM School of Law Dean Camille Carey thanking the State Bar for its support of the UNM Foundation along with a schedule of donations for the Board's informational purposes only.

E. Annual Awards Committee Report

Chair Allison Block-Chavez reported that the Annual Awards Committee met on June 6 to review the nominations received for the 2023 award recipients. She noted that there were a record number of nominations this year, and the committee selected the following recipients: Mary Galvez, Distinguished Bar Service-Nonlawyer Award; Joy Applewhite, Excellence in Well-Being Award; David J. Stout, Judge Sarah M. Singleton Distinguished Service Award; Justice Edward L. Chavez, Justice Pamela B. Minzner Professionalism Award; Judicial Branch IT Staff, Outstanding Legal Organization Award; Shasta N. Inman, Outstanding Young Lawyer of the Year Award; Ella Joan Fenoglio, Robert H. LaFollette Pro Bono Award; and Chief Magistrate Judge Emeritus Lorenzo F. Garcia, Seth D. Montgomery Distinguished Judicial Service Award.

F. Member Services Committee Report

Chair Liz Travis reported that the Member Services Committee met on July 11 to discuss the Committees Policy which is out-of-date. The committee reviewed policies of other state bars and discussed how to make the policy more robust and include some guidelines for the committees. The committee also wants to ensure that they are aligned with our strategic plan and are assisting the membership. Staff is developing a draft policy for the committee's review and will be scheduling a meeting in August prior to its next meeting on September 27. The committee is also looking at whether all of the current committees are necessary and whether additional committees should be created.

V. INFORMATIONAL ITEMS

A. ATJ Commission / Judicial Clerkship Program Update

ATJ Commission Co-Chair Tina Cruz wasn't able to attend the meeting, so no report was provided.

B. State Bar President Report

President Sherman reported on the following:

1. He attended the Jackrabbit Bar Conference in Laramie, Wyoming on June 1-3. Next year it will be in Nevada. The bar associations in the Jackrabbit Bar have similar issues, so it was great to hear from them.
2. He reviewed the schedule of events and highlights for the Annual Meeting, including the keynote speaker, Professor Emeritus at NY Law School Anthony Thompson. Commissioner Brooks reported on the Bar Foundation fundraising events, including a raffle for a trip valued at \$2,500 and a Snag a Bag event, and thanked the Board for their support.
3. The Balancing Committee for the Eighth Judicial District Court Judicial Nominating Commission met on June 28, and it was very difficult time to balance the commission. It will take a constitutional amendment to change the process, and the Chief Justice is open to that.
4. The Supreme Court created a new Commission on Legal Regulatory Reform to explore non-attorneys performing legal work. He was appointed to the commission and the first meeting is August 8. Other members of the Board were appointed to the commission, and the Chief Justice is looking for additional people to serve.
5. He attended the NM LAP Funding Oversight Board Meeting on June 13.
6. He participated in the UNMSOL Alumni Scholarship Golf Tournament in June 9, which the State Bar sponsored.

C. NM State Bar Foundation President Report

Bar Foundation President Judge Butkus reported that the Board approved a new mission statement, which he'll highlight during the raffle drawing. The Board reviewed proposals from three outsourced fundraising companies and directed the Executive Committee to meet with one of the candidates and then bring them to the Board at their September meeting.

D. Executive Director Report

Executive Director Spinello's written report was included in the materials. He noted that a listing of the insurance coverages was included with his report, but it only contains the premiums, not the coverages, so those will be added to dashboard.

E. Self-Study Credit Rule Update

General Counsel Ralstin reported that at the last meeting, the Board expressed an interest in removing the limit on the self-study credits, which the Court also had an interest in and requested attendance monitoring. She sent a follow up letter to the Court confirming that all of our course providers can provide that, so hopefully it can be implemented at the same time as the EIJ credit.

F. State Bar Representative Reports

1. Senior Lawyers Division Delegate Dan Behles reported that the SLD is having a breakfast meeting on Friday during the Annual Meeting and will be presenting pins to honor past chairs of the Division.
2. Young Lawyers Division Chair Damon Hudson reported that the Division is holding their meeting on Saturday during the Annual Meeting. They're working with Commissioner Brooks on a networking and recruiting event on August 18 to include her office, the DA and other agencies; they'll have a panel of representatives from those agencies talk about what those agencies do and job opportunities in their offices. Upcoming events include a UNM School of Law Mentorship Event on September 14, lunch with Judges in Santa Fe on September 19, and a Wills for Heroes Event in Ruidoso on September 30.
3. Paralegal Division Liaison Linda Sanders reported that the Division held a board meeting on July 8 and discussed putting on a symposium in September in Santa Fe. They supported the Wills for Heroes event in Las Cruces. They're hosting a luncheon for their members during the Annual Meeting and are doing a breakout on the effective use of paralegals. Paralegal Day is August 25, and they'll be having a membership luncheon to celebrate.

4. Bar Commissioner Districts – Commissioner Atkins reported that the 12th Judicial District Bench and Bar Conference will be held on September 29. Commissioner Flores reported that they did an event in El Paso and had a good turnout; the YLD assisted with and funded part of the event.

VI. OTHER BUSINESS

A. New Business

President Sherman reported that at the last Executive Committee meeting, they discussed feedback received by commissioners on the new mandatory Equity in Justice credit, since the notice stated that the State Bar proposed it. He explained that the Diversity Committee and Committee on Women conducted a survey, and one of the recommendations was to have a one-hour equity in justice credit. The committees are the committees of the State Bar, and the Board approved the survey report that contained those recommendations. Talking points were distributed to the Board to address any questions from members.

B. Adjourn

There being no further new business, Commissioner Wolf made a motion to adjourn the meeting at 12:20 p.m.