

UTAH STATE BAR
BOARD OF BAR COMMISSIONERS
MINUTES

AUGUST 27, 2010
ZERMATT RESORT
MIDWAY, UTAH

Present: President Robert L. (Rob) Jeffs and Commissioners: Steven R. Burt, H. Dickson Burton, Su J. Chon, Christian W. Clinger, James D. Gilson, Mary Kay Griffin, Curtis M. Jensen, John R. Lund, Lori W. Nelson, Herm Olsen, Thomas W. Seiler, Rodney G. Snow, and Rusty Vetter (participated via telephone).
Ex-Officio Members: M. Peggy Hunt, Chrystal Mancuso-Smith, Stephen W. Owens, Margaret Plane, Lawrence E. Stevens and Angelina Tsu. Executive Director John C. Baldwin, Assistant Executive Director Richard Dibblee, and General Counsel Katherine A. Fox. Supreme Court Liaison Diane Abegglen.

Not in

Attendance: Commissioners: Felshaw King. Ex-Officio Members: Hiram E. Chodosh, Heather Finch, Charlotte L. Miller and James R. Rasband.

Minutes:

1. PRESIDENT'S REPORT: Rob Jeffs

Rob welcomed new members John Lund, Su Chon, Dickson Burton, Peggy Hunt and Supreme Court Liaison Diane Abegglen to the meeting.

1.1 Report on YLD Open House

Rob first reminded Commissioners that we approved additional funds for YLD for open-house type recruiting purposes in order to increase their visibility. He said that the first enhanced social event they held at Flemings was a tremendous success with huge attendance. Christian Clinger observed that there were a number of attendees from outside the Wasatch front and Angelina Tsu expressed YLD's appreciation for the additional funds. She added that she was impressed with the geographical diversity of those attending.

1.2 Report on Section Chair Orientation

Rob reported that the recent section chair orientation meeting was well attended. It was

a great opportunity for the new CLE Commission Advisory Committee to meet with section chairs and emphasize what types of CLE seminars the Bar wants to promote.

1.3 Report on October Leadership Conference

The upcoming Leadership Conference lunch is scheduled for October 21, 2010 at the Little America and Rob encouraged Commissioners to attend if they are available. He noted that it will be a great opportunity to interact and express our expectations. Rod Snow said that he is working on conference plans and asked for input because we are starting with a "clean slate." John Baldwin interjected that it would be a good time to discuss lobbying guidelines and policies.

1.4 Annual Awards Selection Process and Calendar

The Commission has previously discussed appointing a separate awards subcommittee in light of the increasing difficulty with obtaining suitable and timely nominations. Rob wondered if we need to reconsider this idea. Margaret Plane observed that Women Lawyers holds an annual dinner event consisting of past presidents to identify potential candidates for their "Woman Lawyer of the Year Award." She endorses the idea of directly reaching out to UMBA, Women Lawyers, section chairs and other groups to better solicit potential nominees. Dickson Burton commented that asking for input simply isn't sufficient and that more follow-up is important. Rusty Vetter added that we should keep in mind that in order to increase the pool, it's crucial to reach out beyond the range of people with whom Commissioners are normally acquainted but believes it needs to remain a Commission charge. Rod suggested consulting former presidents, an idea that Lori Nelson endorsed. She also said that a large committee to gather possible names is counter productive.

Christian thought that perhaps we could charge the convention chairs with this task and while Herm Olsen liked this concept, he asked if those individuals were already overwhelmed with their normal convention duties. Rob responded that we could add it to the chairs' "to-do" list but John Baldwin interjected that we probably still need to have our normal solicitation channels in place. John Lund echoed John Baldwin's thoughts and believes that it's important to maintain the general membership's opportunity for input. Mary Kay Griffin likes Christian's idea *vis a vis* her experience with the accounting profession's boards.

On a related note, Rob asked for the Commission's input on adding a new award for "Legislator of the Year" which the Executive Committee had discussed. Rob proceeded to highlight the pros and cons of such an award and further discussion ensued. In considering the potential drawbacks, John Baldwin noted that we could easily fold this idea into the current Community Service Award if we wanted to acknowledge a particular legislator.

2. EXECUTIVE DIRECTOR'S REPORT: John Baldwin

2.1 July 6-9, 2011 Convention Change to San Diego Hyatt

John announced that the previous arrangements with the convention site at the San Diego Marriott hotel had to be changed. The switch to the San Diego Hyatt is a positive one, however, because the convention dates remain the same and the facility is overall a better choice with more amenities for the same price.

2.2 Client Security Fund Rule Petition

John reminded the Commission that at a previous meeting, various amendments had been made to the Client Security Fund Rules in order to respond to recent issues. One of those changes was to the four-year statute of limitations, shortening the time frame to two years. The Client Security Fund Committee meets on September 17th to discuss the Commission approved changes and John inquired if the Commission would prefer to wait before the petition is drafted and filed in light of the meeting due to some concerns which had been expressed on this specific amendment. Herm led the discussion by noting that "no one had a better handle on these matters than the long term chair, Dave Hamilton." Rob responded that while his discussions with Dave had not highlighted this concern, there was no real urgency and we could wait for the committee's feedback. Rod, however, expressed his opinion that we did not have sufficient money in the fund to cover all the claims and the Commission is the body that has to deal with this issue. Consensus was to wait until after the committee meeting on the 17th before submitting a petition.

NEW ITEMS: John reported that Joni Seko and Steve Waterman had recently met with the Supreme Court in order to clarify issues that had arisen in an opinion dealing with an admission issue, i.e., waiver of certain admission requirements such as graduating from an ABA approved law school to qualify for admission. The court provided helpful guidance as to what they intended in the opinion and instructed the Admissions Committee to revise rules accordingly. There was also discussion of the Uniform Bar Examination (UBE). As Chair of the ABA's Council of Legal Education and Admission to the Bar, Chief Justice Durham is strongly in favor of moving towards a national bar examination. Bar admissions staff is scheduled to make a presentation on this issue at the September Commission meeting.

John also mentioned that the National Conference of Bar Examiners is holding a regional conference in Salt Lake City. Associate Justice Thomas Lee and Steve Waterman are slated as speakers. Rod observed that this group was responsible for the Multi-State Examination and is reviewing how the UBE impacts reciprocity. Discussion ensued. In response to questions, Rob said that we set our own pass rate and would continue to do so under the UBE even in light of the fact that the UBE test score would be "portable."

3. ACTION ITEMS

3.1 Appoint Fee Arbitration Committee Chair

Rob announced that he had asked his brother, William Jeffs, who is a member of the Fee Arbitration Committee, to replace Steve Johnson as chair. **Christian moved to approve William Jeffs as the designated chair and Curtis Jensen seconded the motion. The motion passed unopposed.**

3.2 Appoint Law & Justice Center LRP Committee

Rob stressed that it is important that we get feedback from our membership on the use of the Law & Justice Center in light of our growing numbers and the limits of the current facility, e.g., should the primary use be for office as opposed to meeting space only. Towards that end, he would like to appoint an L&J Center Long Range Plan Committee. Specifically, and pursuant to the Commission's 2009-2010 Operations Review, "*a committee will obtain input from the [assessment] to educate Bar membership and make recommendations to the Bar Commission, including their recommendation regarding the nature and extent of the Law & Justice Center's usage, whether there should be a change in the character or use of the building and whether the Bar offices should be remodeled, refurbished or relocated, and solicit direction on implementation.*" Steve Burt and Tom Seiler agreed to serve as co-chairs with Dickson, Christian, Herm and Su as members.

3.3 Adopt Committee Charges

At Tab 3, the Commission focused on Bar Committee charges. Rob opined that he would like to see committee membership brought before the Commission for review. Rusty emphasized the need for succession planning within the committees. Jim Gilson added that we need to recruit people rather than merely relying on volunteers.

3.4 Assign Commission Liaisons

Upon distribution of a new handout reflecting the most updated liaison lists, Rob urged Commissioners to: (1) send a letter to the chair; and (2) attend at least two meetings during the upcoming year. John will provide Commissioners with chair contact information.

3.5 Designate Annual Commission Priorities

Rob reviewed last year's Commission priorities with those in attendance. He then asked for suggestions for an all-inclusive list to be narrowed down at the next day's retreat session. Along with specific suggestions such as membership education, delivery of legal services and lawyer advertising, discussion ensued. Steve noted that in formulating our priorities, we need to anticipate the future of the practice of law and not merely promote

individual personal interests. He also said that we need to be committed in terms of funding, resources and energy. Jim opined that the Bar should take the lead in hooking up new lawyers with "low bono" option via a new Bar referral service. Rod interjected that we should "hook up" with Dean Chodosh's "low bono" program. Dickson said that like Felshaw King, he was uncomfortable with undercutting the cost of legal services with sponsoring a "low cost" lawyer service and John Lund commented that we should assume a leadership role about the economic viability of lawyers' services in light of "the last thing anyone wants to do is call a lawyer for a problem."

At the conclusion of the discussion, Rob said that the suggestions would be ranked and further discussed at the retreat.

4. DISCUSSION ITEMS

4.1 Judicial Council Report: Lori Nelson

Lori reported that at the recent Judicial Council meeting, the Governor's budget director spoke. Overall, the economic situation is fairly flat and agencies are being asked to remain within their current budgets in light of expectations for zero to small revenue increases. The AOC has yet to set a budget for the upcoming year but on the priority list are more law clerks for judges. Lori also mentioned that a federal mandate eventually may be coming down the road requiring more language interpreters for judicial proceedings. This requirement may extend to "critical" civil cases as well as criminal matters. Included will be translation availability at the service counters and document translation. Courts expect that costs will triple in this event. The AOC is looking at three new judges (one juvenile and two district court). Currently, the 7th district judges are traveling to the 8th district to help with the caseload. The final agenda item was judicial retirement. Senator Dan Liljenquist met with the Council on the new requirement that state employees work 20 years before becoming vested in the retirement plan. If that becomes the case for judges who typically come to the bench later in their law careers, the fear is that the quality of applicants will severely diminish.

4.2 ABA Meeting Report: Margaret Plane, Larry Stevens

Larry Stevens reported on the most recent ABA meeting in August. In the criminal section, there were eight to ten resolutions focusing on forensic science. Also on the agenda was a civil right to counsel issue in juvenile and high priority cases in order to "equalize the playing field." The most interesting item was the proposal for a resolution to eliminate the legal barrier to same-sex marriage which Margaret Plane noted passed without dissent as an equal justice issue. Larry concluded his report by observing that the group is very concerned about the underfunding and closing of courts throughout the United States.

4.3 Annual Survey of Bar Membership

Rob directed attention to the annual survey results in the packet. He said that the charts generally reflect satisfaction with the Bar but the comments largely reflected views of the disgruntled segment of membership. Herm observed that we could fix the problems with CLE reporting that comprised several complaints and John responded that he will provide survey results to staff in order to fix several other areas as well. He noted that the survey had fewer than 300 respondents. Lori lamented the fact that membership doesn't seem to know what the Commission does but Rob said that with such a small group, it's difficult to draw conclusions. He also said that we need to track responses from year to year and address problem areas where we can. He asked John to have staff prepare responses in several areas.

Jim said that we really should send the survey out again since a small response is statistically insignificant. If that is not possible, we should collate and summarize responses because in its current form, the survey is not very useful. Rob opined that the Wyoming Bar covers a number of other areas such as critical issues facing lawyers with a multiple choice format. Wyoming had a much better response than we did and he asked John to send an electronic copy to the Commission. Further discussion ensued and a number of questions were posed. Steve noted that Dickson had made some good points to promote member participation by "giving something back," i.e., survey results. Consensus was that including questions about income would be very useful. Peggy Hunt observed that the current questions were too open-ended and the format basically encourages complaints.

Rob stated that we can - and should - improve the quality of the survey. Steve said we should include the feature of providing the previous year's results for those completing a current survey. Curtis echoed other's thoughts that the survey should be revamped. Dickson added that we need demographic information about those responding, e.g., age, practice areas, etc., to use as benchmarks. Several Commissions, including John Lund, offered that there are professional survey drafters who do a terrific job and that we should look into it. Further discussion took place about Commissioners' experiences with professional surveys. John Baldwin said that he would summarize comments into categories and provide a meaningful breakdown.

4.4 Introduce Retreat Format

Rob reminded those in attendance that we already had approved hiring Love Communications whose representatives would appear at the retreat to further discuss issues relating to improving the image of lawyers in the community. Scott Sabey will moderate a discussion about educating the public.

5. INFORMATIONAL ITEM

5.1 ABA Panel & NLTP Survey Results: Rod Snow

Rod said that our NLTP survey was patterned after an Ohio survey. He also said that perhaps we could require mentors to complete the survey before authorizing CLE credit to encourage better participation. Various highlights included: 100% mentors said that they would mentor a new lawyer again, 90% said that participation increased their job satisfaction and 100% said that the program was an important means of training new lawyers. Among the new lawyers, 90% said that their direct work supervisor was not their mentor, 94% thought that the program was meeting its goals, 75% felt better prepared to practice but 37% thought the program was only fair to poor. John said that in contrast, Georgia's survey consisted of only two questions. Rod emphasized the importance that the survey tended to reflect opinions of those born after the 1980's and that this group does not particularly value experience. In light of this fact, he noted that we need to instruct mentors about the inadvisability of sharing "war stories."

CONSENT AGENDA

By policy, approved July 14, 2010 Commission Meeting Minutes.

NEW HANDOUTS DISTRIBUTED:

1. Updated Commission Liaison by Commissioner List.
2. Friday Night Dinner List.

MEETING ADJOURNED 4:45 p.m.