

UTAH STATE BAR
BOARD OF BAR COMMISSIONERS
MINUTES

November 9, 2007
SALT LAKE CITY, UTAH

Present: President V. Lowry Snow and Commissioners: Steven R. Burt, Christian Clinger, Yvette D. Diaz, Mary Kay Griffin, Curtis M. Jensen, Felshaw King, Lori W. Nelson, Herm Olsen, Stephen W. Owens and Rodney G. Snow. Ex-Officio Members: Laurie D. Gilliland and Karthik Nadesan. Executive Director John C. Baldwin and General Counsel Katherine A. Fox.

Excused: Commissioners: Nathan Alder, Robert L. Jeffs and Scott R. Sabey. Ex-Officio Members: Sharon M. Andersen, Gus Chin, Hiram E. Chodosh, Charlotte L. Miller, Paul Moxley, Stephanie W. Pugsley and Kevin Worthen. Supreme Court Liaison Marilyn (Matty) Branch.

Minutes:

1. PRESIDENT'S REPORT

NEW ITEM:

Lowry reviewed the Commission calendar and emphasized the importance of the upcoming Fall Forum. (As an aside, he asked that Commissioners wear name tags while attending the Fall Forum.) The focus of this year's Fall Forum is on unbundling of legal services and the proposed mentoring program. We are currently drafting a letter to large law firms encouraging attendance to maximize exposure to the new mentoring proposal and Lowry recently spoke with Cache and Davis County Bar Associations about the proposal.

Lowry reviewed the upcoming deadlines to apply for office of President-elect. He also mentioned the third division potentially has four openings including Lori Nelson's, Steve Owens', Nate Alder's (who previously indicated he'll resign his Commission seat for 2008-9) and Rod Snow's. Lori indicated that she and Rod will run again which would leave two open slots.

NEW ITEM:

Lori explained a proposed medical malpractice arbitration bill which would mandate that the Bar develop and run specialized arbitration program. The cost of

developing and administering this program is clearly a concern and John T. Nielsen is trying to track down the sponsor. Lori said that after John T. discovers who is sponsoring this bill, he will discuss the problematic issues inherent in the bill. Lowry also observed that there may be an issue with the legislature passing a statute mandating a Bar program *vis a vis* the Utah Supreme Court's authority over the practice of law.

NEW ITEM:

Lowry announced that the ABA is requesting bar associations to join in a resolution opposing current developments with the legal system in Pakistan. In the current upheaval, Pakistan Supreme Court's justices are under house arrest, lawyers are protesting and being arrested, and the rule of law has been suspended. Christian Clinger believes the Bar should use this opportunity as a public education tool as well as for good public relations and suggested passing a formal resolution mirroring the ABA's. Steve Owens agreed and Yvette Diaz asked if we should do an opinion editorial piece and contact the newspapers. Rod Snow, however, spoke in opposition to this idea. He said the new government seems similar to Iran's and because this is a complicated situation, we should not be so quick to oppose the current developments before we understand the ramifications of our actions. Laurie Gilliland agreed with Rod. Christian said in lieu of a formal resolution, we could draft an editorial piece discussing the rule of law and how the Pakistani courts/lawyers are attempting to come to its defense. **Christian made a motion to develop news stories/opinion editorial piece for educational purposes. Steve seconded it. Motion failed on the basis that the issue should be more fully investigated before we engage in some affirmative action.**

NEW ITEM:

Karthik announced that the Minority Bar/Women Lawyers mentoring social will be held tonight from 5-7 p.m. at the Atlantic Café.

1.1 Approve Final Draft of Long Range Strategic Plan

Lowry asked Commissioners to review the Long Range plan behind Tab 1. Once the plan is approved the final version will be placed on the Bar's website, included in retreat and new commissioner orientation materials, and an article will be drafted for the *Bar Journal*. **Lori made a motion to approve the plan.** Felshaw King asked if the plan had been put out for member comment. Discussion ensued. **Lori amended her motion to include a preliminary approval process pending a 30-day member comment period. Yvette seconded the amended motion which passed with none opposed.**

1.2 Distribute Program Review Outline Binders

Lowry reported that everyone who is participating in the Bar Program Review should have received their respective binders and John added that two new handouts are to be included in the binders. (The first is the “2007-8 Bar Commission Review of Bar Programs” and the second is the “Program Review Assignments 2007-8” both of which were distributed during the meeting). Lowry believes this process will be a positive one because it will allow Commissioners to become more familiar with various Bar programs and departments. He concluded the discussion by noting that the final review reports should be completed by July 2008 and should include staff recommendations.

1.3 Review 2011 Annual Convention Location

John reported that traditionally every 5 years, the Bar takes the Annual Convention from Sun Valley to another out-of-state location. Reasons for the move include: (1) it keeps the Sun Valley management more responsive to our needs; (2) it keeps Sun Valley “fresher” for attendees; and (3) it provides for a somewhat different attendance. He reported that while Sun Valley attendance has not grown over the years it has remained steady. We’ve tentatively locked in rates for the 2011 Annual Convention to be held at Newport Beach. Discussion over the 2001 venue ensued. This item will be slated for action at the December 2007 Commission meeting.

1.4 Judicial Council Legislative Update

In Scott Sabey’s absence, Lori explained that there are several legislator sponsors who would like to amend the Utah Constitution provisions relating to search and seizure in order to more closely track the federal constitution. (The Utah Constitution provides greater protections in this area of law for important historical reasons.) The Utah Attorney General’s office is on board with these amendments but the chair of the Constitutional Law Section believes that we have members on both sides of this issue so they have asked the Commission not to take a position.

Lori believes that this is a state’s rights issue and the Judicial Council (which has adopted a formal position to oppose the amendments) would like the Bar to join them in opposition. Lowry opined that he is not sure if the time is right for the Commission to take a position on this issue, if at all. Lori (and Rod) think this issue should be an action item for December’s meeting. Lowry asked Lori to prepare a memo in time for the first Governmental Relation Committee meeting in late December/early January and then will schedule discussion for the January Commission meeting. Debates will be scheduled with Judge Paul Cassell and others to flesh out details of this proposal.

2. PUBLIC EDUCATION COMMITTEE REPORT

Steve Owens distributed a handout “Public Education Committee Report 11/07” which he then reviewed. The Committee’s impressions are: (1) our public education efforts for the last several years have been minimal, sporadic, and reactionary; and (2) we need to be more consistent, integrated, and proactive in this area. We need to engage the public to let them know how lawyers can help them and promote the good things the Bar is doing. Our members expect that the Bar will stand up for lawyers and help establish a good impression and image of lawyers. Finally, enhanced public education efforts are consistent with our vision and mission statements.

The Committee met with John Becker (the Bar’s public relations point person) and apparently we have done very little proactively in promoting the good works of lawyers. Karthik Nadesan said the Minority Bar has worked with John Becker and he is effective in designing a “pitch”. Steve further reported that one of the Committee’s recommendations is to implement a “Communications Planning Guide” with monthly calendar items. This would require a \$25,000 line item in annual budget, however. Felshaw observed the sections/divisions should use some of their budgets for public relations efforts. Karthik opined that letting John Becker routinely know of upcoming events would be worthwhile.

Steve recommends a campaign, a line item budget to implement the outlined concepts. John said we need to devise a means to enhance regular contact among sections, committees and John Becker, and Bar staff can help accomplish this. Lori clarified that when sections contact Becker, the bill would be sent to the Bar and paid, but only if authorized. Curtis further clarified that Becker would bill against the \$25,000 for work contemplated in the Communications Planning Guide. Christian believes we need more press releases rather than just “bare bones” e-bulletins. **Felshaw made a motion to approve \$25,000 budget line item and added that section/divisions receive a letter explaining what kinds of public relations tasks can be done on their behalf. Steve Burt seconded the motion which passed unopposed.**

3. MENTORING COMMITTEE REPORT

Connie Howard joined the meeting at this juncture and reported that the second draft of the Commission’s mentoring plan will be further revised now that the Georgia Bar’s mentoring program has been reviewed. Issues for additional consideration include recruiting mentors, establishing qualifications for mentors, and developing MCLE credit/criteria for mentors. Connie and Rod gave an overview of Georgia’s program which includes “outside” and “inside” mentoring as well as group mentoring in rural areas. (Group mentoring serves a good function for those new but unemployed lawyers.) Despite one-on-one mentoring being the preferred method, other approaches are used as necessary. Mentors are required to maintain malpractice insurance, not so much for liability purposes but rather, to set the example for new lawyers.

John further reported that the Georgia Bar is three times the size in comparison to Utah and they admit approximately 1,000 new lawyers annually. The director of the mentoring program is a 20 year veteran lawyer and employs a full time assistant. Communications are all e-mailed so that costs are minimal. He said that we obtained Georgia's program outline as well as copies of their forms which will save money. This program may cost \$30,000 and John believes this is feasible.

Rod added that the Supreme Court would appoint mentors. Mentors would receive 12 CLE credit hours plus additional "professionalism" ethics credit, as well as have a recognition dinner. Connie interjected that the initial mentoring form would be sent out by the Bar's licensing department. Rod is contemplating a year long program that mentors/mentees devise together with mandatory aspects like law management, ethics, etc. along with other discretionary aspects. He prefers a mandatory trial exposure component because all lawyers should have some familiarity with depositions, etc., even if they are engaging in transactional work. Finally, if new lawyers do not complete program, then they will not be eligible to renew their license. Connie noted that the program director would have some flexibility in determining if someone had essentially met the program requirements. Rod and Margaret Plane have scheduled time with the Court to make a preliminary presentation on our program developments.

4. CONSENT AGENDA

By policy, the September 21, 2007 minutes are approved without amendment (Tab 2).

The Courts and Judges Committee Request for Rule on Fax Filings was approved (Tab 3).

MEETING ADJOURNED AT 2:05 P.M.

NEW HANDOUTS DISTRIBUTED DURING MEETING:

- (1) 2007-8 Bar Commission Review of Bar Programs
- (2) Program Review Assignments 2007-8.
- (3) Public Education Committee Report 11/07.
- (4) Office of Professional Conduct Annual Report.
- (5) Summary of Utah State Bar Operations 2006-7.