

UTAH STATE BAR
BOARD OF BAR COMMISSIONERS
MINUTES

FRIDAY, JANUARY 24, 2014

S.J. QUINNEY COLLEGE OF LAW

In Attendance: President Curtis M Jensen and Commissioners: Steven Burt, Hon. Evelyn Furse, James D. Gilson, Mary Kay Griffin, Susanne Gustin, Michael Leavitt, Janise Macanas, Herm Olsen, Rob Rice, Tom Seiler, and Angelina Tsu.

Ex-Officio Members: Robert Adler, Nate Alder, Danielle Davis, Heather Farnsworth, Carl Hernandez (for James Rasband), Lori Nelson, Jesse Nix, Margaret Plane, Lawrence Stevens, and Gabe White. Executive Director John C. Baldwin; Assistant Executive Director Richard Dibblee and General Counsel Katherine A. Fox. Supreme Court Liaison Tim Shea.

Not in Attendance: Commissioners: Kenyon Dove, H. Dickson Burton and John Lund.

Also in Attendance: Sean Toomey, Utah State Bar Communications Director

Minutes:

1. President's Report: Curtis Jensen

NEW: Dean Adler welcomed the Commission. He distributed some folders with information about the College of Law and announced that tours were available upon request to view the new construction. He added that the Law School was doing very well and recently was ranked #2 (after Yale University) for its clinical programs.

NEW: Curtis announced that the quarterly meeting with the Chief Justice was scheduled for later today. The meeting will cover a review of Bar priorities and updating the court of the Bar's new database plans.

1.1 Report on Scheduled Meeting with Governor Herbert Today

Curtis reported that the previously scheduled meeting was cancelled and will be rescheduled for next month. He, Jim and John Baldwin will attend that meeting. John explained that the agenda will include a discussion on the fairness of the judicial selection process, funding for the judiciary, and a review of the Bar's public programs. He characterized the meeting as primarily a courtesy call.

1.2 Review Legislative Breakfast/Bar Day/Phone Conference Calendar

The Legislative Bar Breakfast is scheduled to begin at 7:30 a.m. It will be held at the north end of the Capitol in the multi-purpose room next Tuesday, January 28th. Bar Day at the Capitol will be held on February 18th. The legislative update phone conference calls among Commissioners will begin on January 28th and all following Tuesdays while the Legislature is in session. The conference calls are slated for 4 p.m. on those days.

1.3 Review Luncheon with Past Presidents

While we are working on plans for this event, no firm arrangements have yet been made.

1.4 Review Spring Convention Planning

Jim Gilson reported that Rich Matheson and Aaron Randall are the co-chairs for the Spring Convention which will be held March 13 through the 15th. The theme for this year's convention is "adapt and succeed" which reflects the changing nature of the practice of law. One keynote speaker is Fred Ury who is the past president of the National Conference of Bar Presidents who will speak on "How to Remain Relevant." The other keynote is Hyrum Smith, a co-founder of Franklin Covey. Jim noted that a bicycle ride honoring former Judge Anthony Quinn (the QuinnEssential Memorial Ride) will be held with proceeds to be donated to "and Justice for All." The ride focuses on bicycle safety and provides an opportunity to mingle. Heather Farnsworth interjected that Women Lawyers of Utah extends an invitation to Commissioners to attend a reception during the Spring Convention.

1.5 Review 2014 Convention Planning

Richard Dibblee reported that the Summer Convention will take place July 16-19 in Snowmass. He said that we are still working on keynote speakers. John Baldwin added that we need the Commission's help in encouraging attendance to establish "the culture of Snowmass." We are mailing a postcard followed by a flyer to publicize the convention. Housing is more affordable than Sun Valley although driving is further. Eve Furse inquired if we had looked into renting buses for transportation. Richard responded that it is about \$7,000 to arrange for a bus for 50-60 passengers.

Curtis said that the Judicial Council will be holding its meeting at Snowmass so there should be more judges in attendance this year. He also said that we want to make more activities available. There is a great concert scheduled during the convention. Jim added that we want to organize a hike to a destination like Blue Mountain and Gabe White interjected that there is a white river rafting trip available on Trip Advisor that was fantastic. He wondered if we could get a

discounted group rate. Nate suggested a tennis tournament and/or a skate park event. Along those lines, Lori Nelson said that we should arrange a bonfire site outside the hotel for teenagers to gather at night.

2. Information Items

2.1 Commission Liaison Reports

Lori Nelson: The Family Law Section is very active as usual with a focus on legal process and working with the Government Relations Committee.

Steve Burt: Michelle Harvey will report later on the Disaster Planning Committee. The Construction Law Section needs a new chair; they are sponsoring a breakout presentation at the Spring Convention. The HVAC system still needs small tweaks but things are coming to an end.

Susanne Gustin: She is working on establishing a relationship with the Criminal Defense Bar. The Criminal Law Section is relatively inactive while the Utah Defense Attorneys is the active group in this area of law. John asked Susanne to try to encourage more activity within the Constitutional Law Section.

Angelina Tsu: The Young Lawyers Division just completed a mentoring marathon with over 50 students participating. The Utah Minority Bar Association is hosting a social at Maxwell's on the 29th of the month at 5:30 p.m. The Corporate Counsel Section is planning a full day CLE and the Banking/Finance Section is "slow and steady." Katherine Fox added information about arranging legal malpractice insurance for the new YLD St. George Veterans' Legal clinic.

Mary Kay Griffin: The Non-Profit Section (Bruce Olsen, chair) has been a little slow although they held a November event. The Tax Section is sponsoring an ethics/civility CLE next week and the Budget and Finance Committee reviewed a \$4.8 million budget with \$204,000 in revenue with \$30,000 expenses over budget.

Mike Leavitt: Mostly, his sections just want the Bar "to leave them alone." Most meet regularly. In February, a Price meeting is possibly scheduled. He would like to see a push on courthouses being wired for live CLE credit. Tim Shea interjected that he would like to be included in the discussion to wire the courthouses for CLE credit.

Herm Olsen: He has done outreach to all his assigned sections. Michelle Harvey did a pro bono presentation on Wednesday in Box Elder and the event went well. Having a judicial component is helpful in soliciting lawyers and the judges in attendance offered to mediate cases as long as one attorney signed up for a pro bono case.

Nate Alder: The Antitrust Law Section meets regularly and holds CLE events. The ADR Section is very strong. While he sent letters to all his assigned groups, the Solo and Small Firm Practice Section did not respond. He heard nothing back from the Appellate Section or the Tooele Bar as well.

Tom Seiler: The Military Law section continues to meet once a month where 6-9 lawyers regularly attend. He has not met yet with the Ethics section but with John Snow as chair, they have a quick turn-around with issuing Ethics Advisory Opinions (3-4 weeks). The Wasatch Bar meets once a month with Randy Birch as chair and have 10-20 lawyers attend per session. The Central Utah Bar Association also meets monthly with good CLE. The UAJ Board has a monthly meeting and presents good CLE opportunities for their members. Finally, the Inns of Court are operating nicely (four out of five meeting regularly) and are planning on a formation of a “transactional inn” for the future.

Eve Furse: She reported on the Federal Bar Association which was very active in the fall and plans a convention in St. George in May. Over 113 lawyers attended the CyberLaw Section’s recent CLE. The IP Section is holding a CLE event on February 28th. There were no Bar Exam accommodations last July and she isn’t aware of any upcoming for the February exam. Katherine Fox filled in details concerning the work of the UPL Committee.

Larry Stevens: Cara Martin is the chair of the Franchise Law Section. Brian Burnett serves as chair for the ENREL section and Lincoln Mead has assisted them in repairing their section website. The Employment Law Section co-chairs, Lisa Peck and Jonathon Thorn are very active and doing a good job with that group. Judge David Hamilton has not yet returned Larry’s call concerning the Client Security Fund.

Curtis Jensen: The Bar’s Leadership Conference in October had a large attendance and was very successful.

Several reports were postponed until the Spring Convention including Rob Rice’s, Margaret Plane’s, Kenyon Dove’s, and John Lund’s.

3. Action Items

3.1 Nominate Bar President-Elect Candidates (Tab 1)

Curtis reminded Commissioners that John Lund had withdrawn his name for consideration as a President-Elect candidate. Angelina Tsu and Tom Seiler who are both running gave short presentations on their respective candidacies. **Jim Gilson moved to nominate both Angelina and Tom and Herm Olsen seconded the motion. The Commissioners voted and the motion passed unopposed.**

3.2 Dorathy Merrill Brothers and Raymond Uno Awards (Tab 2)

The Commission considered and discussed the following nominations: Peggy Hunt, Elaina Maragakis, Aida Neimarlija, Lori Nelson, and Terrie McIntosh for the Dorathy Merrill Brothers Award. **Jim moved to give the award to Terrie McIntosh and Eve Furse seconded it. The motion passed with none opposed.** The remaining names will be included for consideration for next year's award.

For the Raymond Uno Award, the Commission discussed the nominations of Larry Echohawk, Janise Macanas and Douglas Matsumori. **Herm Olsen moved for a silent written ballot procedure and Tom Seiler seconded the motion which passed. Janise Macanas subsequently was chosen for this award with none opposed.**

3.3 Select 2015 Summer Convention Location

Curtis announced that we need to decide sooner rather than later where to hold the 2015 Summer Convention. Jim Gilson then reported that we had done research and conducted a recent survey among the members related to the location of future Summer Conventions. As background information, the Fall Forum instituted in 2003 has been our largest attendance event. There is space available the last week of July in Sun Valley for 2015, but not 2016. Overall, attendance at the Summer Convention has been dropping. We spent \$35,000 the last time we met in Sun Valley and \$65,000 in Snowmass last year. While accommodations are somewhat more expensive in Sun Valley, transportation costs are more to travel to Snowmass. Jackson Hole lacks the convention facilities we require.

Jim's recommendation was to tentatively book Sun Valley for 2015 but consider Park City for 2016. He opined that rotating the Summer Convention sites is a good thing since no one location is attractive to everyone. Dee Benson and Paul Warner are the 2015 co-chairs and are attempting to invite Chief Justice Roberts if we hold the convention in Sun Valley. **Jim moved to hold the 2015 convention in Sun Valley and Tom seconded the motion. The vote was 5-4 to hold the meeting in Sun Valley next year.**

4. Discussion Items

4.1 Transitioning from Practice of Law Committee: Ben Hathaway

Ben Hathaway has been working with Lori Nelson in developing ideas for the transition from the practice of law for lawyers who leave the profession by reason of death, becoming disabled, having discipline imposed, retiring or moving their law practice. They have focused on: (1) drafting an outline of a plan that

anticipates changes in one's practice; and (2) educating lawyers about preparing for the above-noted contingencies. The issues inherent in these concepts which need to be addressed are: (1) conflicts; (2) portability; (3) interests of clients; and (4) privileges. They need for form a larger committee and then provide relevant CLE on these issues. The ideal membership for the committee would consists of a member of the judiciary, an OPC staff member, practitioners in tax and estate planning, lawyers from a solo, medium-sized and a large firm, and a senior/of counsel/retired lawyers. Nate interjected that the ABA is concerned with lawyers retiring and leaving rural areas uncovered. Eve suggested hooking up these older lawyers with the Pro Bono Commission.

4.2 Disaster Preparedness Committee Report: Michelle Harvey

Michelle Harvey discussed the work of the Disaster Preparedness Committee. Originally, this committee was put together by Ed Rutan, the former Salt Lake City Attorney, after Hurricane Katrina. Brooke Ashton and Andrea Valenti-Arthur now co-chair this committee. FEMA has requested states to form an appeals process for clinic on contract law for contractors in order for victims to avoid scams after a disaster. St. George is the back-up for a potential Salt Lake disaster and YLD will run a hotline for legal representation in the event of a disaster in Utah and Nevada to assist in the re-building stage. The committee is in the process of creating a disaster response manual listing resources and providing basic law in different areas.

John Baldwin added that we have a contingency plan for our phones, data and a substitute building facility. We also could institute telecommuting where appropriate. Finally, we have a Google telephone number where employees could call into work. From that point, depending on whether the disaster is localized or wide-spread, we can then ascertain how to assemble for work. Our data is on the cloud and shortly to be on our server. In short, we are 90% prepared for a disaster.

Adjourn to Reception with Students at Noon.

HANDOUTS DISTRIBUTED AT MEETING:

1. Media Coverage Summary, November 19, 2014- January 16, 2014.
2. Convention Registrations by Totals for Years 1995 through 2013.
3. Nomination for Janise Macanas by Cecilia Romero for the Raymond S. Uno Award
4. Nominees for the Dorathy Merrill Brothers Award Including Past Recipients and Past Nominations.
5. Nominees for Raymond S. Uno Award Including Past Recipients and Past Nominations.
6. S.J. Quinney College of Law Packet of Information.

ADJOURNED: 12 P.M. Noon

CONSENT AGENDA (Tab 3):

1. Approves Minutes of December 6, 2013 Commission Meeting.
2. Approve Applicants for the February 2014 Motion for Admission.