

**UTAH STATE BAR
BOARD OF BAR COMMISSIONERS
MINUTES**

MARCH 12, 2015

**DIXIE CONVENTION CENTER
ST. GEORGE, UTAH**

In Attendance: President James D. Gilson, President-elect Angelina Tsu, Commissioners: Steven Burt, H. Dickson Burton, Heather Farnsworth, Susanne Gustin, Hon. Michael Leavitt, John Lund, Janise Macanas, Herm Olsen, Rob Rice and Tom Seiler.

Ex-Officio Members: Nate Alder, Heather Allen, Curtis Jensen, Margaret Plane, Young Lawyers Representative Kyle Witherspoon and Supreme Court Liaison Tim Shea.

Not in Attendance: Kenyon Dove and Mary Kay Griffin. Ex-Officio Members: Dean Robert Adler, Aida Neimarlija, Katherine Judd, Jesse Nix, Dean James Rasband, Lawrence Stevens and Assistant Executive Director Richard Dibblee.

Also in Attendance: Executive Director John C. Baldwin, General Counsel Elizabeth A. Wright, and Sean Toomey, Utah State Bar Communications Director.

Minutes: 1:40 p.m. start

1. President's Report:

- 1.1. **Review Spring Convention and Schedule.** Angelina Tsu reported on the schedule for the Spring Convention and the application for smart phones that enables attendee to see the agenda, upload materials and post about the convention.
- 1.2. **Report on National Conference of Bar Presidents.** Jim Gilson reported on the conference held in Houston, Texas in February. The future of the practice of law was an important topic.
- 1.3. **Report on Meeting with Governor Herbert.** Jim Gilson, Angelina Tsu, John Baldwin and Scott Sabey met with the Governor on February 10, 2015. Jim, John and Angelina reported that Governor Herbert is supportive of the Bar. Angelina noted that the Governor's acceptance of 5 of the Bar's suggestions for the Third District Judicial Nominating Committee is a sign of our good relationship and with and respect from the Governor and that it is important to continue to foster our good relationship. The Governor will speak at Bar's Magna Carta event in April.

1.4. **Report on Utah State Bar Day at the Legislature.** John Baldwin reported that the annual CLE was again a success. John invited Commissioners to give input on future agendas for the event.

1.5. **Report on Summer Convention Planning.** Summer Convention Committee member Kyle Witherspoon reported that Justice Kennedy will speak on first day of convention and that the selection of speakers has been finalized.

2. Discussion Items:

2.1 The Commission spent 93 minutes discussing ideas to further expand legal access for the middle class. Jim Gilson sent an email to Commissioners dated March 7, 2015 in which he described the hearing on SJR3, the proposed amendment to deregulate some of the practice of law, and proposed that a task force be established to investigate the 5 ideas in his email for expanding legal services to the middle class. Jim Gilson emphasized that the legislature was certain to make another attempt to deregulate some of the practice of law and that the Bar would be wise to have taken action to improve middle class access to legal services. The Commissioners discussed the fact that the proposed new task force would be replicating the work of the Futures Committee. It was suggested that the new task force should not begin work until the Futures Commission issues its report. Commissioners also discussed the many ideas for offering affordable legal services including limited license providers and non-profits like Open Legal.

John Lund moved to establish a short-term committee to develop a strategy for discussing the provision of affordable legal services to the middle class. Commissioners were invited to suggest names to the Executive Committee. Angelina Tsu will form and chair the committee which will prepare a proposed strategy to be presented at the next Commission meeting on May 1, 2015. **Mike Leavitt seconded the motion which passed unopposed.**

Commissioners should propose names of committee members to the Executive Committee within two weeks. The Executive Committee will select the committee members and Angelina Tsu will chair the committee.

3. Action Items:

3.1 **Petition Court to Permit CLE Credit for Legislators.** Supreme Court Board of Continuing Legal Education Chair Douglas Mortensen and MCLE Director Sydnie Kuhre addressed the Commission regarding a request by some lawyer legislators to receive CLE credit for work as a legislator. Mr. Mortensen and Ms. Kuhre explained MCLE rules and that the Board has a policy of not giving CLE credit for service even if it is law related.

The Commission discussed whether or not work done as a legislator met the guidelines for what counts as continuing legal education. It was pointed out that it would be a bad policy to exempt legislators from rules others are required to follow. The Commission decided that Sydnie Kuhre should investigate whether legislators would be able to earn CLE credit for the initial legislator training they receive upon being elected.

4. Information Items

4.1 Judicial Council Report. John Lund reported on recent rule changes. The Early Resolution Program in criminal cases has been eliminated. The legislature approved an increase to \$150,000 for District Court judges. Rules were also changed to limit media in courtrooms to news gatherers. There has been a problem with individuals filming for non-news related purposes.

Non-Agenda Item

Pro Bono Coordinator Michelle Harvey reported that in an effort to encourage more modest means applicants to pay the \$25 referral fee, the Modest Means Committee would like to require modest means lawyers to provide the first 30 minutes of the meeting with a prospective client for free. Prospective clients can be told that the \$25 referral fee includes 30 minutes of free time with a lawyer. This step will hopefully lead to more people signing up for the program.

Lawyers currently participating in the Modest Means Program were surveyed and 88% of them said that they already provide a free consultation and 11% of them do not. That same percentage of lawyers said they would no longer participate in the program if the 30 minute consultation was required.

Tom Seiler moved to require lawyers participating in the Modest Means Program to give the first 30 minutes of the client meeting at no charge. Judge Leavitt seconded the motion which passed with Steve Burt opposed.

4.2 Performance Review Committee Reports. Summer Convention: Dickson Burton reported that his committee is on schedule to have a recommendation regarding the summer convention for the years after 2017. Summer Conventions have been booked through 2017, so the committee's recommendation will address summer conventions after that date.

Budget Committee: Margaret Plane reported that her committee is looking closely at sub sections of the Bar and is on schedule to recommend changes for some expenditures and keeping the status quo for others.

OPC: Tom Seiler reported that his committee has had two meetings. Last meeting was a 3 ½ hour discussion with Billy Walker.

NLTP: Mike Leavitt reported that his committee has finished with fact finding and is ready to begin writing its recommendation. He reported that those who implemented the NLTP did a great job and they will not be recommending big changes. They will recommend making small changes and ideas for keeping motivation.

4.3 Magna Carta Celebration Report. Dickson Burton reported that the exhibit would arrive in Utah on April 3, 2015 and that there would be an opening reception at the Bar

that evening. The exhibit will tour around the state and there will be a dinner on April 14, 2015 at which Governor Herbert will speak. Essay and video contests are also taking place.

4.4 Advertising Rule. On February 25, 2015, the Supreme Court approved changes to Rules 7.1, 7.2, and 7.3 of the Rules of Professional Conduct concerning lawyer advertising. The new advertising rules go into effect May 1, 2015.

ADJOURNED: 5:10 p.m.

CONSENT AGENDA:

1. Approve Minutes of January 23, 2015 Commission Meeting.