

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

**August 27, 2021**

**MEETING AND RETREAT**

**In Attendance:** President Heather Thuet and President-elect Kristin “Katie” Woods.

Commissioners: John Bradley, Traci Gunderson, Rick Hoffman, Greg Hoole, Chrystal Mancuso-Smith, Marty Moore, Mark Morris, Andrew Morse, Shawn Newell, Michelle Quist, and Tyler Young.

**Ex-Officio Members:** Past-President Heather Farnsworth, Nate Alder, Erik Christiansen, Kim Cordova, Beth Kennedy (for Kim Neville), Brandon J. Mark, Grant Miller, Camila Moreno (via Zoom), Tonya Wright, and Dean Elizabeth Kronk-Warner.

**Not in Attendance:** Ex-Officio Members: Ramzi Hamady, Margaret Plane, and Dean Gordon Smith.

**Also in Attendance:** Executive Director Elizabeth A. Wright, General Counsel Nancy J. Sylvester, Supreme Court Liaison Nick Stiles, Troy Booher, Supreme Court Justice Deno Himonas, Courts Finance Director Karl Sweeney, Bar Finance Director Lauren Stout, Bar IT Director David Clark, Blomquist Hale representative Cameron McBride (via Zoom), and Michigan State Bar Executive Director Janet Welch (via Zoom).

**Minutes:**

**1. President’s Welcome and Report: Heather Thuet.** The meeting commenced at 10:00 a.m. Ms. Thuet welcomed Commission members and guests to the meeting. She noted the agenda and retreat events. She then turned to the action items.

**2. Action items**

**2.1 Select YLD ABA Delegate: Heather Thuet.** Ms. Thuet called for discussion and a motion regarding the appointment of the YLD ABA delegate. Mr. Miller noted that the YLD Board had recommended that Camila Moreno be reappointed. Ms. Quist

moved to reappoint Ms. Moreno as the YLD ABA Delegate. Mr. Morse seconded. The motion carried.

**2.2 Appoint Ex Officio Members: Heather Thuet.** Ms. Thuet called for discussion and a motion regarding the appointment of Commission ex officio members. Marty Moore moved to appoint the ex officio members listed in the materials. Mr. Bradley seconded. The motion carried.

**2.3 Appoint Committee Chairs: Heather Thuet.** Ms. Thuet called for discussion and a motion regarding the appointment of Commission Committee chairs. Ms. Wright noted that Michael Menssen should be added to the committee chair appointment list. The UPL Committee requested that he be made co-chair. The Commission then discussed adding Rick Hoffman as co-chair of the Budget and Finance Committee. Mr. Hoffman agreed to serve in that capacity. Mr. Moore moved to approve the committee chair and co-chair appointments as listed in the materials and in the discussion. Ms. Woods seconded. The motion carried.

**2.4 Appoint Commission Liaisons: Heather Thuet.** Ms. Thuet called for discussion and a motion regarding the Commission liaison assignments, as provided in the materials. Ms. Quist moved to approve the assignments. Mr. Young seconded. The motion carried.

### 3. Discussion Items

**3.1 Bar Organization Rules: Nancy Sylvester.** Ms. Sylvester reviewed with the Commission the rules that govern the Bar. She explained the Utah Supreme Court's constitutional power to regulate the practice of law and its authorization to the Bar to administer its rules and regulations regarding the practice of law. Ms. Sylvester recited the Bar's purposes, duties, and responsibilities as follows: (1) advancing the administration of justice according to law; (2) aiding the courts in the administration of justice; (3) regulating the admission of persons seeking to practice law; (4) fostering and maintaining integrity, learning competence, public service, and high standards of conduct among those practicing law; (5) representing the Bar before legislative, administrative, and judicial bodies; (6) preventing the unauthorized practice of law; (7) promoting professionalism, competence, and excellence through continuing legal education and other means; (8) providing a service to the public, the judicial system, and Bar members; (9) educating the public about the rule of law and responsibilities under the law; and (10) assisting Bar members in improving the quality and efficiency of their practice. She then noted that the Bar's budget is an integral part of how the Bar effectuates its purposes.

**3.2 Keller Case Law Recap and Update: Troy Booher.** Mr. Booher reviewed the current case law around *Keller v. State Bar of California*. He noted that *Keller* and its germaneness standard remain good law.

**3.3 Utah Supreme Court: Justice Deno Himonas.** Justice Himonas discussed a State Bar reimagined that is largely supported by data to best serve the public good. He noted that it should have the regulatory goal of meeting the legal needs of the public. He also noted that he thought the Supreme Court would consider ultimately expanding the Bar, not shrinking it. The Bar would include lawyers, licensed paralegal practitioners, and those in the sandbox who are not lawyers. The Commission discussed the pros and cons of this and what the future could look like. Justice Himonas noted that Bars across the nation tend to not like the idea of the Sandbox but the public – by a wide margin – does. He suggested that the Bar Commission should include more public members to help inform this future.

#### **3.4 The Future of the Bar from the Perspective of affinity bars.**

Tonya Wright updated the Commission on the Paralegal Division. She said the division has worked hard to give value to its members for the dues they pay, including offering regular CLE and networking opportunities. She also noted that there are discussions about the gender makeup of the paralegal profession.

Grant Miller updated the Commission on the Young Lawyers Division. He noted that the YLD has many pro bono services that it offers, including Wills for Heroes, Senior Services, the VA project, and Cinderella prom. Mr. Miller noted several other programs including Fit to Practice, socials, CLE's, and scholarships that the division offers to its members. He expressed appreciation for the Commission's support.

Beth Kennedy updated the Commission on Women Lawyers of Utah (WLU). She highlighted the group's popular retreat in November, which attracts judges and lawyers across the legal spectrum. Ms. Kennedy noted that WLU's banter with the bench, fireside chats, free monthly CLE's, judge mentoring, and partner mentoring are popular programs. She said WLU has a chapters chair who reaches out to remote lawyers and Zoom CLE's have been helpful in engaging women lawyers across the state.

Brandon J. Mark updated the Commission on the LGBTQ & Allied Lawyers Division. He noted that his division is also seeking to reach lawyers outside the Wasatch Front. Mr. Mark said they are working on a remote Rainbow Law clinic – offering services for name and gender changes for transgender people in light of the Utah Supreme Court's ruling this year.

**3.5 Blomquist Hale Report: Cameron McBride - via Zoom.** Mr. McBride provided a report on the Bar's use of Blomquist Hale services. In the past 12 months, 180 licensees and 137 dependents used Blomquist Hale services. Service usage distributed across all categories as follows: mental health (47.47%), marital (22.60%), drug and alcohol (1.69%), workshops (2.82%), personal (3.39%), family problems (20.06%), suicidal (0.28%), wellness (0.85%), legal (0.56%), financial (0%), senior care (0%), online resources (0%), instant communication (0%).

**4. Working Lunch and Presentation: Janet Welch, Executive Director**

**State Bar of Michigan - via Zoom.** Ms. Welch discussed Michigan's operations and the history of integrated Bars. She observed that there are many good reasons for having integrated bars. Ms. Welch noted that Michigan is moving forward with its integrated bar despite the nationwide challenges because it has a clean appellate decision that allows for its current organizational composition. She said there is a working group of Bar executive directors that discusses how integrated bars can better serve the lawyers and public than non-integrated bars.

**5. Budget Deep Dive: Rick Hoffman.** Mr. Hoffman reviewed the Bar's budget numbers. He observed that Projects and Services are where the Bar should be placing its attention since this was where the Bar's purposes and responsibilities were seen in action. He noted that CLE is a growth opportunity.

**6. Discussion of Current Spend & Priorities for Future: Marty Moore.** Mr. Moore discussed the budget and made recommendations for improvement, including hiring an hourly investment advisor rather than having Zions Bank continue to manage the Bar's investments. Mr. Moore noted that individual bonds are too risky but there are several on the Bar's books. Mr. Sweeney noted that the Bar could do the same thing with its investments that the court does. Mr. Moore moved that the commission find an hourly-based advisor. Ms. Quist seconded. Mr. Morse made a friendly amendment that the Budget Committee interview potential advisors in the next 60 days. The motion carried.

Ms. Woods then moved the Commission to create a committee for the purpose of better engaging non-Wasatch Front lawyers. Mr. Christiansen noted that this should be broadened to encompass more initiatives. Mr. Hoffman proposed that the Bar hire a surveyor to determine how it can better serve lawyers in the state. Both suggestions were construed as friendly amendments. Ms. Quist seconded the motion. The motion carried. Ms. Woods was asked to head up the committee. Multiple members of the Commission enthusiastically volunteered to join.

**7. Approve support of the Executive and Judicial Compensation Committee's efforts during the 2022 legislative session to obtain judicial pay raises. Heather Thuet.** Ms. Thuet noted that supporting the judiciary is a primary function of the Bar and enthusiastically recommended that the Commission support efforts to obtain judicial pay raises. Mr. Moore made the motion. Mr. Newell seconded. The motion carried.

**8. Approve 2021-2022 Budget for Action. Lauren Stout.** Ms. Stout noted that the Bar's proposed budget is balanced, with a \$1,000 net profit. Ms. Thuet observed that it would be helpful to have an all-day budget meeting and that commissioners should expect a proposed budget in April so that the budget discussion could happen earlier. She noted that the budget before the Commission reflected many hours of work. But, she said, she felt that the Commission should have more information from years past.

Ms. Woods noted that the Budget and Finance Committee had approved the budget with a majority vote. Mr. Hoffman observed that to the extent that there were any concerns about some of the numbers before the Commission, some of them could be explained by employee turnover. Ms. Wright noted that the budgeting process starts in January when the executive director begins meeting with each department to assess needs.

Mr. Moore said he approved the budget but noted that the Commission should discuss its budget planning throughout the year. Mr. Newell observed that the Commission should have a strategic plan to go along with the budget. Commission members then commented that a strategic plan could be developed in Ms. Woods' new committee.

Mr. Sweeney commented that the judiciary has a strategic planning budget meeting in which it discusses the funding requests it will make to the Legislature, the projects it will defer pending study, and the projects it will fund with one-time money. He also noted that it may be helpful to add 5-year averages to the Bar's budget discussion.

Committee members then commented that the budget did not contain PPP funds and discussed a plan to vote separately on any PPP fund expenditures.

Ms. Quist moved to approve the proposed budget, to vote separately on the expenditure of any PPP funds, and to start the budgeting process earlier in the year. Mr. Bradley seconded the motion. The motion carried with Ms. Thuet dissenting with respect to passing the proposed budget.

**9. Executive Session.** No executive session was held.

10. **Minutes.** The Commission approved the July 28, 2021 Commission meeting minutes by consent with one amendment reflecting that John Bradley was in attendance.

11. **Adjourn.** The Bar Commission meeting adjourned at 4:00 p.m.