

**STATE BAR OF GEORGIA  
BOARD OF GOVERNORS  
MEETING MINUTES  
Friday, October 21, 2016  
The Lodge and Spa at Callaway/Pine Mountain, GA**

The 265<sup>th</sup> meeting of the Board of Governors of the State Bar of Georgia was held at the date and location shown above. Patrick T. O'Connor, President, presided.

Special Recognition

President Pat O'Connor recognized the members of the judiciary, the Past Presidents of the State Bar, and other special guests in attendance.

Roll Call

Secretary Darrell L. Sutton circulated the roll for signature. The list of those in attendance is attached as Exhibit A.

Future Meetings Schedule

The Board of Governors received a copy of the Future Meetings Schedule.

100<sup>th</sup> Anniversary of Women in the Profession

In connection with the State Bar of Georgia celebrating the 100<sup>th</sup> anniversary of the approval of legislation in 1916 that authorized women to practice law in Georgia, President Pat O'Connor recognized the following women lawyers for their contributions to the rule of law, the justice system, and careers exceeding half a century: Virginia Ware Killorin, Mary Ann E. Sears, Marilyn W. Carney, Louise Thornton Hornsby, and Margaret Robinson. Thereafter, the Board of Governors recognized all of the women lawyers in attendance.

Minutes of the 263<sup>rd</sup> and 264<sup>th</sup> Meetings of the Board of Governors

The minutes of the Board of Governors meetings on June 17 and June 18, 2016, at the Omni Amelia Island Hotel, Amelia Island, Florida, were approved by unanimous voice vote.

Resolution Honoring Chief Justice Thompson

Following a report by President Pat O'Connor, the Board of Governors, by unanimous voice vote, approved a resolution recognizing out-going Georgia Supreme Court Chief Justice Hugh P. Thompson for his outstanding service to the justice system of the State of Georgia. The resolution will be presented to Chief Justice Thompson at the Midyear Meeting.

Appointments to the Commission on Continuing Lawyer Competency (CCLC)

The Board of Governors, by unanimous voice vote, approved the appointment of Kent Altom and Anne Kaufold-Wiggins to the CCLC for three-year terms (2017-2019).

Proposed Bar Rules Changes

Following a report by Bill NeSmith, the Board of Governors took the following action on proposed changes to the Bar's rules:

Proposed Rule

1) Rule 1.501 License Fees (Exhibit B)

Action

A motion preserving the right of an attorney to have a hearing before termination at the five-year threshold in subsection (c) passed by majority hand vote

A motion recommending the amended rule to the Supreme Court of Georgia passed by unanimous voice vote

- 2) Rule 1-501.1 License Fee – Late Fee (Exhibit C) Approved recommending to the Supreme Court of Georgia by unanimous voice vote
- 3) Rule 4-402 Formal Advisory Opinion Board (Exhibit D) Approved recommending to the Supreme Court of Georgia by unanimous voice vote
- 4) Rule 5.5 Unauthorized Practice of Law, Multijurisdictional Practice of Law (Exhibit E) Approved recommending to the Supreme Court of Georgia by unanimous voice vote

#### Communications Committee PSAs

Communications Committee Co-chair Sonjui Kumar presented three PSAs that were developed for the Bar's media campaign, "Who needs lawyers? We do." This is in support of the Bar's strategic plan initiative to increase the positive perception of the legal profession through the media. The PSAs feature actual clients whose lives were changed for the better due to the exceptional efforts of their attorneys. The PSAs will be launched on social media on Veterans Day. President Pat O'Connor reported to the Board of Governors that the media cost to push the PSAs on television and radio will be approximately \$250,000 and will be paid from the Cornerstones of Freedom line item of the 2016-17 State Bar budget.

#### Institute of Continuing Legal Education (ICLE)

President Pat O'Connor briefly reported on the issues and changes that have occurred at ICLE. This includes a State Bar ICLE Study Committee, chaired by Past President Hal Daniel, to make a recommendation to the Executive Committee and the Board of Governors on what to do if the ICLE Board of Trustees were to ask the State Bar to house ICLE. He also commended Dean Bo Rutledge and all the staff at the University of Georgia (UGA) for their helpfulness during the transition process.

#### ICLE Board of Trustees Report

Immediate Past President Bob Kauffman, ICLE Board of Trustees Chair, reported that ICLE, under interim Executive Director Doug Ashworth, is continuing to offer its full array of seminars with an abbreviated staff. He explained that ICLE is a consortium between the State Bar and Georgia's five law schools. The staff was, and until December 31 are, employees of UGA as well as ICLE. Upon receiving information from a whistleblower, UGA conducted an audit of ICLE's operations. When UGA was presented the findings of the audit, it terminated from its employment three ICLE staff. The ICLE Board of Trustees immediately suspended those employees from their ICLE employment to allow ICLE time to conduct its own audit. That suspension ended today and those employees are no longer associated with ICLE, two of the employees having resigned from ICLE and one having been conditionally terminated should ICLE not receive his resignation. In the meantime, the Board of Trustees has been looking at the future of ICLE as either a standalone entity or a commission or program of the State Bar. Following the Board of Trustees meeting today, the Trustees voted to enter into discussions with the State Bar about bringing ICLE under the Bar's umbrella. Because of ICLE's structure as an unincorporated 501(c)(3) organization, ICLE's assets would go to the State Bar, but would be segregated for the sole purpose of ICLE. ICLE staff would be Bar employees, but an oversight board would still be able to set policies as to programming. To move forward in this direction, the State Bar needs approval for the execution of ICLE moving into the Bar.

### State Bar ICLE Study Committee Report

Past President Hal Daniel, Chair of the ICLE Study Committee, reported on the actions and recommendations of the Committee. The Study Committee identified two options for consideration. Option one would fold ICLE into the State Bar as a Bar program with a standing committee for oversight. Option two would bring ICLE into the State Bar as a commission similar to the CCLC. Under option two, policy decisions would be made by the commission and it would develop its own rules of operation. The commission's funding would come from the revenues it generates through CLE program fees. The employees would still be Bar employees. He reported that it was the consensus of the Study Committee that it would be a good thing for ICLE to be under the umbrella of the State Bar, and that it unanimously recommended option two, that ICLE be set up as a commission, but with a director different than the Bar's executive director.

### State Bar's Interim Relationship with ICLE

President Pat O'Connor reported that instead of an interim relationship, the ICLE Board of Trustees is looking for the Bar to embrace the idea of a permanent relationship, subject to reviewing a specific proposal and the proposal being thoroughly vetted and approved. The Board of Governors meets only periodically, and in between, the Executive Committee has the authority to act on its behalf. He does not, however, want the Executive Committee to act without input and buy-in from the Board. The alternative is to reconvene another Board meeting, but timing for this is an issue because ICLE is in danger of losing more employees, and its affiliation with UGA ends on December 31. He opened-up the floor for discussion. David Cannon requested that the amount of the CLE reporting fees be revisited during this transition. President Pat O'Connor agreed that this, along with all ICLE operations, would be reviewed in the event ICLE is taken into the State Bar. The Board of Governors, by unanimous voice vote, endorsed the Executive Committee acting on the request that has been made by the ICLE Board of Trustees.

### Advisory Committee on Legislation (ACL)/Legislative Proposals

Following a report by ACL Committee Chair Jon Pannell, the Board of Governors took the following action on proposed legislation:

<u>Legislative Proposal</u>	<u>Germane to Purposes of the Bar</u>	<u>Support on Merits 2/3 Majority</u>
Georgia Appellate Practice and Educational Resource Center		
1) Funding Request	Passed by unanimous voice vote	Passed by unanimous voice vote
Nonprofit Law Section		
1) Redomestication of Nonprofit Corporations	Passed by unanimous voice vote	Passed by unanimous voice vote
Child Protection and Advocacy Section		
1) Juvenile Practice and Proceedings Proposal	Passed by unanimous voice vote	Passed by unanimous voice vote
Fiduciary Law Section		
1) Amendments to Georgia's Rule Against Perpetuities and Additional Methods for Modifying Irrevocable Trust	Passed by unanimous voice vote	Passed by unanimous voice vote
2) Creation of a Georgia Revised Uniform Fiduciary Access to Digital Assets Act	Passed by unanimous voice vote	Passed by unanimous voice vote

Jon Pannell announced that the next ACL Committee meeting is on November 29, 2016.

#### Legislative Update

Rusty Sewell provided an update on the upcoming 2017 legislative session.

#### Review of the State Bar's Position on the JQC Amendment

Immediate Past President Bob Kauffman reviewed what transpired last year regarding the JQC issue and the State Bar's opposition to the proposed legislation during the last legislative session. He reminded the Board that this legislation was fast moving and it ultimately passed by only one vote. He also reminded the Board that research showed a media buy necessary to mount a media campaign against the JQC Amendment would cost \$4 million, and a public campaign by the Bar against the Amendment would likely harm the State Bar's ability to participate in the reworking of the legislation that will constitute the JQC if the Amendment passes. President Pat O'Connor stated that, in his view, when acting on this issue, the goal should be to make sound decisions that ultimately help improve the JQC.

#### JQC Legislative Task Force

President-elect Buck Rogers, JQC Legislative Task Force chair, reported on the activities of the Task Force. The Task Force conducted a cross-jurisdictional study and Georgia is in the minority with one of the smallest commissions and one without separate adjudicative and investigative panels. Both he and President Pat O'Connor were invited to sit-in on meetings of the JQC Rules Revision Committee chaired by Supreme Court Justice David Nahmias. That committee's proposed rules provide for a 12-member commission and a two-panel bifurcated system (investigative and hearing panel). Any rules changes that contemplate a two-panel JQC require a constitutional amendment dissolving the current JQC and allowing for it to be reconstituted otherwise. The Task Force supports those rules revisions, especially because they will allow for input by the State Bar in how a new JQC is constituted. The Task Force's recommendation is that the State Bar not take a formal position on the JQC constitutional amendment.

#### JQC Rules Revision Committee

Ed Tolley reported on the activities of the JQC Rules Revision Committee chaired by Supreme Court Justice David Nahmias, which is drafting new internal rules for the JQC in an effort to modernize Georgia's JQC. It is striving to provide for a system that the public can be confident in, while at the same time affording judges the due process they deserve.

If the JQC constitutional amendment is not approved, 7 commissioners, as presently constituted, will remain in place. If the amendment passes, however, the Committee is prepared to propose that the legislature approve a 12-member commission with two panels, investigative and hearing. Nine members would make up the investigative panel (3 lawyers, 3 judges, 3 public members) and would conduct investigations. The other 3 members would make up the hearing panel (1 lawyer, 1 judge, 1 public member) and adjudicate complaints. Of note, the proposed composition preserves appointments by the State Bar. The Committee is also dealing with rules on advisory opinions and provisions for members term limits, removals and disqualifications. Concerning the removal of judges, the Committee's position is that the Supreme Court will and should have the final review.

#### Constitutional Amendment 3 (JQC)

Seth Kirschenbaum presented a resolution opposing Constitutional Amendment 3. Following a motion and second that the State Bar pass the resolution opposing Constitutional Amendment 3, and a lengthy discussion among the Board members, the Board of Governors took the following action:

- 1) By 2/3 voice vote, failed to pass a motion to postpone action on the resolution until November 4, 2016;

- 2) By unanimous voice vote, approved an amended motion to change the language in the resolution of “Judicial Code of Conduct” to “Georgia Code of Judicial Conduct;”
- 3) By unanimous voice vote, accepted the amendment; and
- 4) By majority voice vote, approved a motion calling the questions; and
- 5) By a stand-up vote of 48 in favor to 55 opposed, failed to pass the amended resolution in opposition to Constitutional Amendment 3.

#### Report of the President

President Pat O'Connor reported that it has been a challenging but productive four months. At its core, the profession is about building relationships. He recognized the following recently deceased attorneys who were influential in their own rights: Past President Jeff Bramlett, John Mayoue and Aron Weiner. He stated that he is excited about the celebration of the 100<sup>th</sup> anniversary of women lawyers and the new PSAs. The State Bar is going to try and develop more PSAs in the future so if any lawyer has a story to tell they should contact Sarah Coole. He reported that that the Bar's leadership stepped up during the Bar exam issue. He recognized Immediate Past President Bob Kauffman for the work he has done in leading ICLE and also thanked the law school deans for their support. He especially thanked interim ICLE Executive Director Doug Ashworth for carrying the ICLE program forward. He has kept the Board members abreast of the issues and will continue to do so. He thanked the Board members for always doing their best and for the good debate today. He invited the Board members to become Fellows of the Georgia Bar Foundation. Funds generated by the Fellows program will be used to support indigent defense efforts. He announced that the Military Law Section is planning a WWI Commemorative Voyage to Belgium and France planned on October 2-14, 2017, and anyone interested in attending should contact Norman Zoller. He stated that he is honored to serve as Bar President; that we have accomplished a lot and have challenges ahead, but will continue to work as hard as we can, and thanked the Board members for their service.

#### Treasurer's Report

Treasurer Kenneth B. Hodges reported on the Bar's finances and investments. The Board of Governors received copies of the combined Operations and Bar Center Consolidated Revenues and Expenditures Report as of June 30, 2015; Income Statement YTD for the Twelve Months Ended June 30, 2015; Bar Center Revenues and Expenditures Summary for the Twelve Months Ended June 30, 2015; State Bar Balance Sheet for June 30, 2015; and the Summary of Selected Payment Information at July 1, 2016.

#### Attorney Wellness Task Force Report

Attorney Wellness Task Force Chair Kenneth B. Hodges announced that the wellness program is participating in an Out of Darkness Walk on November 6, which is a walk to raise awareness about the issues of suicide. He also announced that there is a walk/fun run scheduled in the morning.

#### YLD Report

YLD President Jennifer Campbell Mock reported that in August the Women in the Profession Committee put together an exhibit and program to celebrate the 100<sup>th</sup> Anniversary of Women in the Profession. She thanked Morgan Clemons and her committee for creating such an outstanding program. The Estate Planning Committee continues to conduct its Wills Clinics around the state. The Law School Outreach Committee has visited all six law schools and has received a great response and feedback from the law students. The Leadership Academy applications have been sent out for this year's Academy, and its first meeting will take place in Columbus. The Annual Signature Fundraiser will be held on February 25,

2017, and Georgia CASA is this year's beneficiary. She stated that the YLD would love to have any interested Board members attend an event and share their experiences with the young lawyers.

#### Disciplinary Rules and Procedures Committee

This report was moved to the Midyear Meeting. The Board of Governors received a handout of the Proposed Revisions to the Disciplinary Rules.

#### Aging Lawyers Task Force

This report was moved to the Midyear Meeting.

#### Member Benefits Committee Cloudlaw/Zeekbeek

Member Benefits Committee Chair John Kennedy reported that the committee is looking at a proposal from CloudLaw, Inc. to create linked member directories that help consumers find active Georgia attorneys on Zeekbeek.com. Features members can take advantage of include the ability to create customized profiles that consumers can search to find a lawyer, establish unique URLs that allow members to use the profile page as a personal website, and several others. It would be a free service for State Bar members and a good resource to members of the public needing lawyers. The Committee will continue to study the proposal and report further at the Midyear Meeting.

#### Law-Related Program and Virtual Law Museum

This report was moved to the Midyear Meeting.

#### BASICS Fundraiser

BASICS Committee Chair Seth Kirschenbaum announced that the BASICS program is planning a 40<sup>th</sup> Anniversary Gala fundraiser on March 4, 2017.

#### Executive Committee Minutes

The Board of Governors received copies of the minutes from Executive Committee meetings held on May 19, June 29, and August 16, 2016.

#### Strategic Plan Update

The Board members received a written report on the Strategic Plan.

#### Office of the General Counsel

The Board of Governors received a written report on the activities of the Office of the General Counsel.

#### Military Legal Assistance Program (MLAP)

The Board of Governors received a written report on the activities of the MLAP.

#### Consumer Assistance Program

The Board of Governors received a written report on the activities of the Consumer Assistance Program.

#### Law Practice Management Program

The Board of Governors received a written report on the activities of the Law Practice Management Program.

#### Unlicensed Practice of Law

The Board of Governors received a written report on the Formal Investigations undertaken by the Unlicensed Practice of Law Program.

Communications Update

The Board of Governors received a written report on the Bar's Communications at a glance.

Old Business

There was no old business.

New Business

There was no new business.

Adjournment

There being no further business, the meeting was adjourned.



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Darrell L. Sutton, Secretary

Approved:



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Patrick T. O'Connor, President