

**LOUISIANA STATE BAR ASSOCIATION
HOUSE OF DELEGATES
9 a.m. ■ Saturday, January 25, 2014
Renaissance Baton Rouge Hotel**

A C T I O N S

Mr. Leefe called the meeting to order at 9:40 a.m., which delay was caused by inclement weather.

I. Certification of Quorum by the Secretary

Mr. Grodsky certified that there was a quorum.

II. Recognition of Deceased Members of the House of Delegates

Mr. Leefe asked the House for a moment of silence in memory of Orlando N. Hamilton, Jr. of Oak Grove, who passed away in November at the age of 85. Mr. Hamilton served in the House from 1984/1985 through 1987/1988 and from 1990/1991 through 2009/2010.

General Session

III. Reports of Standing Committees of the House *

1. Jeffrey A. Riggs, Liaison Committee Chair (oral report)

Mr. Riggs reported on efforts to foster inter-session communications among House members using Linked In and referred members to the handout which was distributed.

IV. Reports of Officers, Board of Governors, Standing Committees and Sections of the Louisiana State Bar Association *

1. Richard K. Leefe, President

Mr. Leefe gave a brief report on a number of successful programs, including the December 2013 Danube River CLE cruise. He also advised that plans were underway for a program to be held in conjunction with Lafayette's Festival Internationale, scheduled for late April 2014.

2. Joseph L. "Larry" Shea, Jr., President-Elect

Mr. Shea gave a brief report on plans for the Annual Meeting/Summer School and encouraged all to attend.

3. Barry H. Grodsky, Secretary

Mr. Grodsky gave a brief report on the status of the Louisiana Bar Journal, as well as the Committee on the Profession's mentoring program scheduled to start on January 1, 2015. He urged House members to volunteer as mentors.

4. Steven G. “Buzz” Durio, Treasurer
Mr. Durio gave a brief report and advised that the FY 2012/2013 audit had been completed and the LSBA received another clean audit.

V. Reports of Special Committees of the Louisiana State Bar Association*

There were no additional oral reports. Written reports were distributed via email.

VI. Other Reports*

1. Louisiana Judicial College
Judge John Michael Guidry made a presentation regarding the LJC's mission to educate the judiciary and LJC's need for additional funding to do that effectively. Judge Guidry advised that the LJC would seek approval from the Legislature during the 2014 Session for a dedicated filing fee of .50 on all civil filings, excluding domestic and juvenile. This dedicated fee would be utilized to generate the needed additional funding for LJC.

By the requisite two-thirds vote, the House voted to suspend its Rules to consider Judge Guidry's request to support such a bill in the Louisiana Legislature.

Upon motion by Mr. Abaunza and second by Mr. Kutcher, the House voted to support the funding initiative as presented by the Louisiana Judicial College and to inform the Legislation Committee of its decision.

2. Louisiana Client Assistance Foundation
Louisiana Client Assistance Foundation (LCAF) President Frank X. Neuner, Jr. reported that LCAF pays claims based on recommendations from the LSBA's Client Assistance Fund Committee, chaired by David W. Leefe. Mr. Neuner advised that since 2001, the Fund had paid almost \$2 million to 382 claimants. He further advised that there are 56 open claims with potential exposure of \$432,000. He reported that funding for LCAF comes from the Louisiana Outside Counsel Health and Education Foundation (LOCHEF), and that annual contributions from that group are scheduled to continue until 2021. He referred members to the written report for additional information.

Activities of the House of Delegates

VII. Old Business

There was no old business to come before the House.

VIII. Approval of Minutes

Consideration of approval of the Minutes of the June 6, 2013 Meeting of the House of

Delegates, held in Destin, Florida.

Upon motion by Robert A. Kutcher and second by Mr. Riggs, the House unanimously approved the minutes as presented.

IX. Elections

Before the elections began, Mr. Leefe advised that Mr. Kutcher would be resigning from the House of Delegates and the Liaison Committee at the conclusion of the June 5 House meeting so that he could be sworn in as LSBA Treasurer. Mr. Leefe further advised that although the HOD Rules allowed the President to fill vacancies on the Committee, he would in June ask the House for a suspension of its Rules so that the House itself could choose someone to serve the remaining year of Mr. Kutcher's term.

1. Election of one member to serve a three-year term on the House of Delegates Liaison Committee, to commence at the conclusion of the 2014 Annual Meeting and end at the conclusion of the 2017 Annual Meeting. This member shall be elected from House of Delegates members representing the 20th through 42nd Judicial Districts.

Mr. Kutcher made the following motion:

“BE IT RESOLVED that Jacob Braud of the 25th Judicial District be elected to the House of Delegates Liaison Committee as a member representing the 20th through 42nd Judicial Districts, for a three-year term to commence at the conclusion of the 2014 Annual Meeting and to end at the conclusion of the 2017 Annual Meeting.”

Timothy E. Pujol made the following motion:

“BE IT RESOLVED that Christopher Bridges of the 23rd Judicial District be elected to the House of Delegates Liaison Committee as a member representing the 20th through 42nd Judicial Districts, for a three-year term to commence at the conclusion of the 2014 Annual Meeting and to end at the conclusion of the 2017 Annual Meeting.”

The motion to close the nominations was made and adopted. A hand-count vote was taken and Mr. Braud was declared elected.

2. Election from the three Liaison Committee members, of a Chair of the House of Delegates Liaison Committee for 2014-2015, whose term will commence at the conclusion of the 2014 Annual Meeting. The Chair of the Liaison Committee is a voting member of the Board of Governors.

Mr. Kutcher made the following motion:

“BE IT RESOLVED that Tricia A. Pierre of the 15th Judicial District be elected Chair of the House of Delegates Liaison Committee for a

one-year term to commence at the conclusion of the 2014 Annual Meeting and to end at the conclusion of the 2015 Annual Meeting.”

Ms. Pierre was elected by acclamation.

X. Resolutions

Committee Resolutions

1. Resolution from the Rules of Professional Conduct Committee to amend Rule 1.15 of the Rules of Professional Conduct, to require reconciliation of client trust accounts at least monthly, as well as maintenance of such records of the reconciliation(s).

Jack K. Whitehead, Jr. made the following motion, which was seconded by Mr. Kutcher.

“BE IT RESOLVED, that the resolution from the Rules of Professional Conduct Committee to amend Rule 1.15 of the Rules of Professional Conduct, to require reconciliation of client trust accounts at least monthly, as well as maintenance of such records of the reconciliations(s) be adopted.”

Rules of Professional Conduct Committee Chair Richard C. Stanley reviewed the proposed change and advised that the committee felt it was in the best interest of the lawyer and his/her clients for the lawyer’s trust account(s) to be reconciled on a monthly basis.

Omar Mason spoke against the proposed change, citing that it would put a burden on solo practitioners.

Mr. Whitehead and John F. Robichaux spoke in favor of the resolution.

After a unanimous vote to end the debate, the House voted to approve the resolution.

2. Resolution from the Rules of Professional Conduct Committee to ask the Louisiana Supreme Court to adopt recent ABA changes with regard to:
 - Rule 1.0 – change reference from “email” to “electronic communications”
 - Rule 1.6(b)(7) – regarding confidentiality of information
 - Rule 1.6(c) – regarding confidentiality of information
 - Rule 1.18 – regarding duties to prospective clients
 - Rule 4.4 – regarding respect for rights of third persons
 - Rule 5.3 – regarding responsibilities regarding non-lawyer assistance.

James J. Davidson III made the following motion, which was seconded by Winfield E. Little, Jr.

“BE IT RESOLVED, that the resolution from the Rules of Professional Conduct Committee to ask the Louisiana Supreme Court to amend Rules 1.0, 1.6(b)(7), 1.6(c), 1.18, 4.4, and 5.3 be adopted.”

Rules of Professional Conduct Committee Chair Richard C. Stanley reviewed the proposed changes and advised that they were non-substantive in nature.

Amanda Strickland Stout made the following motion, which was duly seconded:

“BE IT RESOLVED, that Rule 4.4(b) as amended reads as follows (originally proposed changes are underlined; new changes appear in red):

Rule 4.4 Respect for Rights of Third Persons

- (a) In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.
- (b) A lawyer who receives a writing or electronically stored information that, on its face, appears to be subject to the attorney-client privilege or otherwise confidential, under circumstances where it is clear that the writing or electronically stored information was not intended for the receiving lawyer, shall refrain from examining or reading the writing or electronically stored information, promptly notify the sending lawyer, and return the writing or delete the electronically stored information.

After a unanimous vote to end the debate, the House voted to approve the amendment.

After a brief additional discussion, the House voted to approve the motion as amended.

Section Resolution

3. Resolution from ADR Section to amend its Bylaws

Mr. Riggs made the following motion, which was seconded by Winfield E. Little, Jr.:

“BE IT RESOLVED that the resolution from the ADR Section to amend its Bylaws be adopted.”

ADR Section Chair Paul B. Breaux reviewed the proposed changes, which he advised were unanimously approved by the Section at its annual meeting.

The House unanimously approved the resolution as presented.

Member Resolutions

4. Resolution from Bill of Rights Section Chair Leo C. Hamilton urging the LSBA to:
- Strengthen its commitment and efforts to improve availability of a full-range of legal services to all citizens of Louisiana;
 - Actively participate in the Louisiana Bar Foundation's Louisiana Campaign to Preserve Legal Aid by establishing specific goals for various groups within the LSBA; and
 - Encourage Louisiana lawyers to expand their pro bono efforts.

Michael W. McKay made the following motion, which was seconded by Joseph L. Shea, Jr.:

“BE IT RESOLVED, that the resolution from Bill of Rights Section Chair Leo C. Hamilton urging the LSBA to: strengthen its commitment and efforts to improve availability of a full-range of legal services to all citizens of Louisiana; actively participate in the Louisiana Bar Foundation's Louisiana Campaign to Preserve Legal Aid by establishing specific goals for various groups within the LSBA; and encourage Louisiana lawyers to expand their pro bono efforts be adopted.”

Bill of Rights Section Chair Leo C. Hamilton reviewed the resolution and advised that the Louisiana Bar Foundation was the second largest funder of Legal Services Corporations in Louisiana.

Mr. Riggs made the following motion to amend the resolution, which Mr. Whitehead seconded:

“BE IT RESOLVED, that the second item after the final whereas of the resolution shall read as follows (changes appear in red):

(2) Actively participate in the efforts of the Louisiana Bar Foundation's Louisiana Campaign to Preserve Legal Aid ~~to increase contributions by establishing goals of a 100 percent participation rate by members of the House of Delegates and Board of Governors, 75 percent of Louisiana State Bar Association Section, and a 50 percent participation rate by all lawyers.~~

Mr. McKay spoke against the proposed amendment.

After a unanimous vote to end the debate, the House defeated the motion to amend.

James C. Gulotta, Jr., Mr. Shea and W. Michael Street spoke in favor of the resolution as originally presented.

After a unanimous vote to end debate on the original motion, the House voted to approve the motion.

5. Resolution from 15th Judicial District Delegate Jeffrey A. Riggs and Solo and Small Firm Section Chair Richard W. Martinez urging the Louisiana Supreme Court to adopt proposed Rule 1.19 of the Rules of Professional Conduct regarding preparation of succession plans by lawyers.

Mr. Riggs made the following motion, which was duly seconded:

“BE IT RESOLVED that the resolution urging the Louisiana Supreme Court to adopt proposed Rule 1.19 of the Rules of Professional Conduct regarding preparation of succession plans by lawyers be adopted.”

Adrian Nadeau spoke in opposition to the resolution, stating that the Lawyers in Transition Committee had already sent something very similar to the Supreme Court for approval and deemed this resolution unnecessary.

Mr. Riggs advised that the resolution currently before the House did not require succession plans for lawyers, but merely encouraged them.

Steven G. Durio spoke in favor of the resolution, citing that the Supreme Court was reluctant to approve the resolution previously adopted by the House due to the original resolution’s immunity provision.

Mr. McKay spoke against the resolution, citing that it was a major change from the position previously adopted by the House. He further indicated that the Lawyers in Transition Committee (which submitted the resolution previously approved by the House) believes that lawyer succession plans should be mandatory and that he agrees.

Mr. Stanley spoke against the resolution, indicating that it was his understanding that the original resolution was still under consideration by the Supreme Court and that the House should wait for final disposition on that resolution prior to taking any additional action.

Mickey S. deLaup made a motion to table the resolution, which was seconded by Mr. Kutcher.

The House voted to table the resolution.

XI. Other Business

Consideration of any other business to come before the House of Delegates.

There being no further business, the meeting was adjourned at 11:35 a.m.