

LOUISIANA STATE BAR ASSOCIATION
HOUSE OF DELEGATES
10 A.M. THURSDAY, JUNE 7, 2012
DESTIN, FLORIDA

MINUTES

The House of Delegates was convened at 10:05 a.m., Thursday, June 7, 2012 in the Magnolia Ballroom of the Baytowne Conference Center at Sandestin Golf & Beach Resort in Destin, Florida. President James J. Davidson III reminded House members that nominations for positions on the Legislation Committee would close in five (5) minutes and encouraged members to submit their nominations to LSBA staff members.

I. Certification of Quorum by the Secretary

After conferring with Assistant Secretary Loretta Larsen, Secretary Richard K. Leefe confirmed that a quorum was present. A copy of the attendance roster is attached as an addendum to these Minutes.

II. Recognition of Deceased Members of the House of Delegates

There were no deceased members since the January 2012 meeting of the House.

III. Reports of Standing Committees of the House

No oral reports were given; all reports that were in writing were submitted.

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

All reports were given at the General Assembly, which immediately preceded the House of Delegates meeting.

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

There were no reports either written or oral.

VI. Other Reports

There were no other reports.

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 January 21, 2012 Meeting of the House of Delegates.

Upon motion by Robert Kutcher of the 24th Judicial District and second by Val P. Exnicios of Orleans Parish, the House unanimously approved the minutes as presented.

IX. Elections

Election of three (3) members of the House of Delegates to the Special Advisory Committee to Authorize the President to Speak on Behalf of the Association. The committee is composed of the president, president-elect, secretary, chair of the Public Information Committee, and the three (3) House of Delegates members.

The following motion was made by Steven G. "Buzz" Durio, by proxy of Kyle L. Gideon of the 15th Judicial District:

"BE IT RESOLVED that Val P. Exnicios of the 41st Judicial District be elected to the Special Advisory Committee to Authorize the President to Speak on Behalf of the Association."

The following motion was made by Mickey S. deLaup of the 24th Judicial District:

"BE IT RESOLVED that Thomas C. Cerullo of the 24th Judicial District be elected to the Special Advisory Committee to Authorize the President to Speak on Behalf of the Association."

The following motion was made by Keenan K. Kelly of the 10th Judicial District:

"BE IT RESOLVED that Dan B. McKay, Jr. of the 12th Judicial District be elected to the Special Advisory Committee to Authorize the President to Speak on Behalf of the Association."

There being no further nominations, Mr. Davidson declared the nominations closed and declared Mr. Exnicios, Mr. Cerullo and Mr. McKay elected.

X. Election of five (5) members of the House of Delegates to serve three-year terms on the Legislation Committee. To ensure geographically diverse representation, there shall be no more than three (3) House of Delegates representatives from a judicial district at any given time. Terms commence on July 1 immediately following the election and end June 30, 2015. The following HOD members' terms are expiring:

Paula Adams Ates	C. Frank Holthaus	Jennifer M. Medley
Thomas C. Cerullo	Robert A. Kutcher	

In accordance with the established election procedures, the following were duly nominated and elected by House members via secret ballot:

Sye Joseph Broussard (32nd JDC)
Thomas C. Cerullo (24th JDC)

C. Frank Holthaus (19th JDC)
Robert C. Lehman (22nd JDC)
J. Christopher Zainey, Jr. (41st JDC)

XI. Resolutions

Member Resolutions

1. Resolution from J. Christopher Zainey, Jr. (41st Judicial District) and Peggy Vallejo (22nd Judicial District) urging the House of Delegates' support of the Louisiana Department of Veterans Affairs' efforts to establish Veterans Treatment Courts in the State of Louisiana.

The following motion was made by J. Christopher Zainey, Jr. of the 41st Judicial District:

“BE IT RESOLVED that the House of Delegates support the Louisiana Department of Veterans Affairs' efforts to establish Veterans Treatment Courts in the State of Louisiana.”

Upon second by David LaCerte (by proxy of Felicia F. Davis, 18th JD), and Ms. Vallejo speaking in favor, the House voted unanimously to adopt the resolution.

2. Resolution from Val P. Exnicios (41st Judicial District) asking the House of Delegates to void its June 2011 resolution to recommend to the Louisiana Supreme Court that it amend the Rules of Professional conduct to allow for the sale of a law practice.

Mr. Exnicios made the following motion:

“BE IT RESOLVED that the House of Delegates void its June 2011 resolution to recommend to the Louisiana Supreme Court that it amend the Rules of Professional conduct to allow for the sale of a law practice.”

George Recile (24th JD) seconded the motion and Mr. Durio spoke against it. The motion FAILED by a hand vote of 58 for and 68 against.

3. Resolution from Steven G. Durio (15th Judicial District) asking the House of Delegates to recommend to the Louisiana Supreme Court the adoption of Proposed Rule 1.17 to allow for the sale of a law practice.

Mr. Durio made the following motion:

“BE IT RESOLVED that the House of Delegates approve the resolution to recommend to the Louisiana Supreme Court that it adopt Proposed Rule 1.17 to allow for the sale of a law practice.”

Mr. Kutcher seconded the motion and Mr. Exnicios spoke against the resolution and offered an amendment to require affirmative client consent to the sale in the form of a signed contract by adding the following:

- (i) Notwithstanding any other provision to the contrary, the transfer of any and all contingency fee matters shall not be effective unless and until the client executes a new contingency fee contract with the transferee lawyer or law firm.

Mr. Durio seconded the motion to amend and Dan McKay (12th JD) spoke against it. A voice vote was taken and the House approved the amendment.

A voice vote was then taken on the motion as amended, which the House approved.

Committee Resolutions

4. Resolution from the Rules of Professional Conduct Committee asking the House of Delegates to recommend to the Louisiana Supreme Court proposed revision to Rule 3.8 of the Rules of Professional Conduct to include former prosecutors.

Mr. Leefe made the following motion on behalf of Rules of Professional Conduct Committee Chair Richard C. Stanley:

“BE IT RESOLVED that the House of Delegates recommend to the Louisiana Supreme Court proposed revision to Rule 3.8 of the Rules of Professional Conduct to include former prosecutors.”

The motion was seconded and adopted.

5. Joint Resolution from the Bar Governance Committee and Ad Hoc Legislative Policy Committee to amend the Bylaws as related to the Legislation Committee (Article IX) and Legislative Positions (Article X).

Legislation Committee Chair Michael W. McKay gave a report on the activities of the Legislation Committee, including some of the challenges faced by the committee. At the conclusion of Mr. McKay’s report, the following motion was made by S. Guy deLaup of the 24th Judicial District, who chairs the Bar Governance Committee:

“BE IT RESOLVED that the House of Delegates support the Joint Resolution from the Bar Governance Committee and Ad Hoc Legislative Policy Committee to amend the

Bylaws as related to the Legislation Committee (Article IX) and Legislative Positions (Article X).”

The motion was seconded and adopted unanimously.

6. Resolution from the Committee on the Profession asking the House of Delegates to approve the concept of mandatory mentoring for new admittees.

Committee on the Profession Chair Barry H. Grodsky introduced the resolution and made the following motion:

“BE IT RESOLVED that the House of Delegates approve the concept of mandatory mentoring for new admittees.”

Mr. McKay seconded the motion and the House adopted it unanimously.

XII. Other Business

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

There being no further business, the meeting was adjourned at 11:30 a.m.

Respectfully submitted:



Richard K. Leefe
Secretary

APPROVED BY HOUSE OF DELEGATES
JANUARY 19, 2013
NEW ORLEANS, LA

ADDENDUM
To June 7, 2012 House of Delegates Minutes

ATTENDANCE

FIRST JUDICIAL DISTRICT (14 seats) Parish of Caddo

Louis R. Avallone
Claude W. Bookter, Jr.
PRESENT James L. Fortson, Jr. BY PROXY TO John Bokenfour
PRESENT Stephen Christopher Fortson
John M. Frazier
PRESENT John R. Herzog BY PROXY TO Paul Strickland
W. James Hill III
Richard M. John
Kevin R. Molloy
Jason Michael Nash
Marshall R. Pearce
Nyle A. Politz
PRESENT Joseph L. Shea, Jr.
Kenneth Craig Smith, Jr.
PRESENT Paul L. Wood

THIRD JUDICIAL DISTRICT (3 seats) Parishes of Lincoln & Union

Cary T. Brown
Tyler G. Storms

FOURTH JUDICIAL DISTRICT (11 seats) Parishes of Morehouse & Ouachita

PRESENT Brandon B. Brown
Elizabeth J. Guerriero
PRESENT Jeffrey D. Guerriero
PRESENT Paul L. Hurd BY PROXY TO Jennifer Johnson
Charles L. Kincade
PRESENT Ramsey L. Ogg
PRESENT Alex W. Rankin
PRESENT Arthur L. Stewart
David J. Summersgill
PRESENT Thomas G. Zentner

FIFTH JUDICIAL DISTRICT (3 seats) Parishes of Franklin, Richland, & West Carroll

John Clay Hamilton

John Hoychick, Jr.
Ann B. McIntyre

SIXTH JUDICIAL DISTRICT (2 seats) Parishes of East Carroll, Madison & Tensas

PRESENT George F. Fox, Jr.

SEVENTH JUDICIAL DISTRICT (2 seats) Parishes of Catahoula & Concordia

PRESENT John C. Reeves
PRESENT Ann S. Siddall

NINTH JUDICIAL DISTRICT (7 seats) Parish of Rapides

Robert L. Bussey
Charles D. Elliott
Howard B. Gist III
Mark F. Vilar
PRESENT Zebulon M. Winstead BY PROXY TO Danny Ellender
PRESENT Christie C. Wood

TENTH JUDICIAL DISTRICT (2 seats) Parish of Natchitoches

PRESENT Keenan K. Kelly
PRESENT Charles R. Whitehead, Jr., BY PROXY TO Cloyd Benjamin

ELEVENTH JUDICIAL DISTRICT (1 seat) Parish of Sabine

William Daniel Dyess

TWELFTH JUDICIAL DISTRICT (2 seats) Parish of Avoyelles

Douglas L. Bryan
PRESENT Dan B. McKay, Jr.

THIRTEENTH JUDICIAL DISTRICT (2 seats) Parish of Evangeline

Timmy J. Fontenot

FOURTEENTH JUDICIAL DISTRICT (9 seats) Parish of Calcasieu

PRESENT Theresa A. Barnatt
PRESENT Brian Lee Coody BY PROXY TO Todd Ammons
PRESENT L. Paul Foreman
PRESENT Thomas L. Lorenzi
PRESENT Robert C. McCorquodale
PRESENT David Daniel Palay, Jr.

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PRESENT Larry E. Pichon BY PROXY TO Kent Savoie
PRESENT Betty A. Raglin BY PROXY TO Pete Pohorelsky
PRESENT John F. Robichaux BY PROXY TO Winfield E. Little, Jr.

FIFTEENTH JUDICIAL DISTRICT (13 seats) Parishes of Acadia, Lafayette & Vermillion

Homer Ed Barousse, Jr.
PRESENT Ariel A. Campos, Sr.
PRESENT Dean A. Cole
PRESENT Kyle L. Gideon BY PROXY TO Steven G. "Buzz" Durio
PRESENT Matthew J. Hill, Jr. BY PROXY TO Carolyn Cole
Andrew B. Mims
PRESENT Joseph R. Oelkers III BY PROXY TO Franchesca L. Hamilton-Acker
PRESENT Barbara A. Olinde BY PROXY TO Christopher Piasecki
PRESENT Donovan J. O'Pry II BY PROXY TO Sara Rodrigue
PRESENT Tricia R. Pierre
Jeffrey A. Riggs
PRESENT Michael D. Skinner BY PROXY TO Bianca L. Chretien
Juliette B. Wade

SIXTEENTH JUDICIAL DISTRICT (8 seats) Parishes of Iberia, St. Martin & St. Mary

PRESENT Adolph B. Curet III BY PROXY TO James McClelland
Eric P. Duplantis
Paul T. Landry
Marsha McNulty
Andrew Reed
Maggie T. Simar
Anne G. Stevens
Dennis R. Stevens

SEVENTEENTH JUDICIAL DISTRICT (5 seats) Parish of Lafourche

David G. Arceneaux,
Matthew Ferdinand Block
PRESENT Annette Marie Fontana BY PROXY TO Daniel A. Cavell
Robert M. Pugh
Nicholas J. Zeringue

EIGHTEENTH JUDICIAL DISTRICT (4 seats) Parishes of Iberville, Pointe Coupee & West Baton Rouge

PRESENT Felicia F. Davis BY PROXY TO David LaCerte
PRESENT Stephen Philibert Jewell BY PROXY TO John Wayne Jewell
PRESENT Francis A. Smith, Jr.

NINETEENTH JUDICIAL DISTRICT (21 seats) Parish of East Baton Rouge

PRESENT B. Scott Andrews BY PROXY TO Mary Ann White
PRESENT Kelly E. Balfour

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PRESENT Jesse H. Bankston, Jr.
Paul W. Breaux BY PROXY TO Robert Burns
Dana B. Brown,
PRESENT James D. "David" Caldwell, Jr.
Jack M. Dampf
PRESENT Juan M. "John" Delgado
PRESENT Michael D. Ferachi BY PROXY TO Bradley J. Tate
PRESENT Frank A. Fertitta BY PROXY TO Stephanie Possa
C. Kevin Hayes
PRESENT C. Frank Holthaus BY PROXY TO Regina James
Stephen M. Irving
Jay M. Jalenak, Jr.
PRESENT Michael W. McKay
PRESENT Adrian G. Nadeau
Alejandro R. "Al" Perkins
Glen R. Petersen
PRESENT Valerie T. Schexnayder
PRESENT Amanda S. Stout
PRESENT David Abboud Thomas BY PROXY TO Darrell J. Papillion
PRESENT Jack K. Whitehead, Jr. BY PROXY TO Steve LeBlanc

TWENTIETH JUDICIAL DISTRICT (2 seats) Parishes of East Feliciana & West Feliciana

PRESENT Samuel Christopher D'Aquila BY PROXY TO Michael Hesse
PRESENT Michael L. Hughes

TWENTY-FIRST JUDICIAL DISTRICT (9 seats) Parishes of Livingston, St. Helena & Tangipahoa

PRESENT Mary E. Heck Barrios
PRESENT Erik L. Burns
Anthony Todd Caruso
Douglas T. Curet
Steven J. Farber
Jay J. Harris
D. Blayne Honeycutt
Brian D. Lenard
PRESENT Carolyn F. Ott

TWENTY-SECOND JUDICIAL DISTRICT (12 seats) Parishes of St. Tammany & Washington

Elizabeth A. Alston
Eric K. Buerger
William Harvell Burris
Olivier Provosty Carriere II
Christina L. Carroll
PRESENT Keith M. Couture
PRESENT Gino Ronald Forte BY PROXY TO Hank Miltenberger

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Gordon Timothy Herrin
Michael E. Holoway
PRESENT Robert C. Lehman
John W. Lindner, II
J. Kevin McNary
PRESENT Peggy G. Vallejo

TWENTY-THIRD JUDICIAL DISTRICT (5 seats) Parishes of Ascension, Assumption & St. James

PRESENT Christopher J. Bridges
Lana O. Chaney
PRESENT Michael J. Poirrier
Timothy E. Pujol

TWENTY-FOURTH JUDICIAL DISTRICT (19 seats) Parish of Jefferson

Raylyn Reine Beevers
PRESENT Conrad A. Buchler
Robert J. Caluda
PRESENT Thomas Christopher Cerullo
Christy M. Howley Connois
PRESENT Sandra K. Cosby
PRESENT Mickey S. deLaup
PRESENT S. Guy deLaup
PRESENT Geralyn P. Garvey BY PROXY TO Stephen I. Dwyer
PRESENT Robert A. Kutcher
PRESENT John J. Lee, Jr.
PRESENT Robert A. McMahon, Jr.
Scott W. McQuaig
PRESENT Bryan A. Pfleeger
PRESENT Roy A. Raspanti
PRESENT George B. Recile
Thomas F. Schexnayder
Mettery I. Sherry, Jr.
PRESENT Tina Louise Suggs

TWENTY-FIFTH JUDICIAL DISTRICT (2 seats) Parish of Plaquemine

Dominick Scandurro, Jr.
PRESENT Michele Magill Smith

TWENTY-SIXTH JUDICIAL DISTRICT (6 seats) Parishes of Bossier & Webster

PRESENT John Zachary Blanchard, Jr.
Amanda J. Hulett
PRESENT Patrick R. Jackson
PRESENT Jason W. Poe
PRESENT Ross E. Shacklette BY PROXY TO Michael E. Daniel
David M. Touchstone

TWENTY-SEVENTH JUDICIAL DISTRICT (4 seats) Parish of St. Landry

PRESENT Francis A. Olivier III
PRESENT John L. Olivier
PRESENT Jacque B. Pucheu, Jr. BY PROXY TO Berryl Gordon-Thompson
Randy Wagley

TWENTY-EIGHTH JUDICIAL DISTRICT (1 seat) Parish of LaSalle

Steven Paul Kendrick

TWENTY-NINTH JUDICIAL DISTRICT (3 seats) Parish of St. Charles

PRESENT Steven F. Griffith, Sr.
PRESENT Gregory A. Miller
Robert L. Raymond

THIRTIETH JUDICIAL DISTRICT (3 seats) Parish of Vernon

Elizabeth Brummet Carr
David James Klann
Lisa Kay Nelson

THIRTY-FIRST JUDICIAL DISTRICT (1 seat) Parish of Jefferson Davis

PRESENT Richard M. Arceneaux

THIRTY-SECOND JUDICIAL DISTRICT (5 seats) Parish of Terrebonne

PRESENT Charles C. Bourque, Jr.
PRESENT Sye Joseph Broussard
William Seth Dodd
Kassie L. Hargis
PRESENT Patricia P. Reeves-Floyd

THIRTY-THIRD JUDICIAL DISTRICT (2 seats) Parish of Allen

Mary Hebert Holmes
Michael Bruce Holmes

THIRTY-FOURTH JUDICIAL DISTRICT (5 seats) Parish of St. Bernard

Alan G. Bouterie, Jr.
Roberta L. Burns
Tracy Helen Duplantier
PRESENT Gregory J. Noto
PRESENT Paul A. Tabary III

THIRTY-FIFTH JUDICIAL DISTRICT (1 seat) Parish of Grant

Joseph P. Beck III

THIRTY-SIXTH JUDICIAL DISTRICT (2 seats) Parish of Beauregard

THIRTY-SEVENTH JUDICIAL DISTRICT (1 seat) Parish of Caldwell
James E. Mixon

THIRTY-EIGHTH JUDICIAL DISTRICT (1 seat) Parish of Cameron

THIRTY-NINTH JUDICIAL DISTRICT (1 seat) Parish of Red River
John Q. Davis

FORTIETH JUDICIAL DISTRICT (3 seats) Parish of St. John the Baptist

PRESENT Daniel E. Becnel, Jr.
PRESENT William D. O'Regan III BY PROXY TO Tom Daley
Richard B. Stricks

FORTY-FIRST JUDICIAL DISTRICT (33 seats) Parish of Orleans

PRESENT Donald R. Abaunza
PRESENT Glenn B. Adams
Brent B. Barriere
PRESENT Francis J. Barry, Jr.
PRESENT Ashley L. Belleau
PRESENT Jack C. Benjamin, Jr. BY PROXY TO Chris Ralston
PRESENT Andrew A. Braun BY PROXY TO Joseph Barecca
Patrick D. Breeden
PRESENT Joseph M. Bruno BY PROXY TO Marta-Ann Schnabel
PRESENT Thomas A. Casey, Jr. BY PROXY TO Mark A. Cunningham
PRESENT Paul B. Deal BY PROXY TO Larry Centola III
PRESENT Richard B. Eason, II BY PROXY TO Rachel Wisdom
PRESENT Val P. Exnicios
PRESENT William R. Forrester, Jr.
PRESENT Darryl J. Foster
PRESENT Judith A. Gainsburgh
PRESENT James C. Gulotta, Jr.
PRESENT Philip K. Jones, Jr.
PRESENT David W. Leefe
PRESENT Ryan M. McCabe
PRESENT André J. Mouledoux
PRESENT Brian P. Quirk
PRESENT Louis Gravois Schott
PRESENT Karen Baumgartner Sher BY PROXY TO Alvin C. Meister
PRESENT Ronald J. Sholes
John A. Stassi II
Patrick A. Talley, Jr.
PRESENT Irving J. Warshauer BY PROXY TO William Bennett

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PRESENT	Edward Dirk Wegmann BY PROXY TO Jay C. Zainey
PRESENT	Walter I. Willard BY PROXY TO Clarence Koby
PRESENT	Phillip A. Wittmann
PRESENT	Sharonda R. Williams BY PROXY TO Larry Demmons
PRESENT	Jay C. Zainey, Jr.

LOUISIANA STATE BAR ASSOCIATION

HOUSE OF DELEGATES, JUNE 6, 2012

RESOLUTION RE: SUPPORT OF VETERANS TREATMENT COURTS IN LOUISIANA

WHEREAS, military veterans have sacrificed much to our nation and the great state of Louisiana; and

WHEREAS, as a result of their service, many veterans suffer combat-related trauma and may experience a higher rate of substance abuse and mental health issues; and

WHEREAS, on occasion, these substance abuse and mental health issues may manifest themselves in criminal acts, both great and small; and

WHEREAS, throughout the country, state court judges are joining with local prosecutors, public defenders, United States Department of Veterans Affairs officials, local attorneys, and volunteer mentors, to create courts with veterans-only case proceedings, because they have seen a common thread of post-traumatic stress disorder (PTSD), substance abuse, head injuries, and mental illness underlying some crimes committed by veterans, and

WHEREAS, Judge Robert Russell, presiding judge of the Buffalo Drug Court and Buffalo Mental Health Court, created the nation's first Veterans Treatment Court in January of 2008, in response to the growing number of veterans appearing on the dockets who suffer from addiction to drugs or alcohol or suffer from mental illness; and

WHEREAS, Veterans Treatment Courts have posted recidivism rates as low as zero percent, well below the near 50 percent recidivism rate for the state of Louisiana as a whole, and

WHEREAS, the widespread growth and early success of Veterans Treatment Courts has led to a number of states to introduce legislation pertaining to veterans in the criminal justice system and establishing Veterans Treatment Courts, and most recently, California, Colorado, Illinois, Oregon, and Virginia have passed similar legislation establishing Veterans Treatment Courts; and

WHEREAS, the Louisiana Department of Veterans Affairs (LDVA) is currently researching the feasibility of creating and implementing such courts in the state of Louisiana.

THEREFORE, BE IT RESOLVED, that the Louisiana State Bar Association House of Delegates support LDVA's efforts to establish Veterans Treatment Courts in the state of Louisiana.



J.C. Zainey

41st Judicial
District Delegate



Peggy Vallejo

22nd Judicial
District Delegate

**UNANIMOUSLY APPROVED
HOUSE OF DELEGATES
JUNE 7, 2012
DESTIN, FL**

**UNANIMOUSLY APPROVED
BOARD OF GOVERNORS
JUNE 8, 2012
DESTIN, FL**

RESOLUTION BY VAL P. EXNICIOS

WHEREAS, at the June, 2011 meeting of the House of Delegates in Las Vegas, the HOD approved a Resolution from 15th Judicial District Representative Steven G. "Buzz" Durio urging the Louisiana Supreme Court to adopt Rule 1.17 of the ABA Model Rules of Professional Responsibility, which allows for the sale of a law practice, as Rule 1.17 of the Louisiana Rules of Professional Responsibility; and

WHEREAS, a friendly amendment to the Resolution was adopted by the HOD that the Rules of Professional Conduct Committee be involved in developing the final language for submission to the Louisiana Supreme Court; and

WHEREAS, the Rules of Professional Conduct Committee, after an exhaustive evaluation of ABA Rule 1.17, has concluded that its members are opposed to adoption of any such similar rule by the Louisiana Supreme Court and are unable to draft any acceptable alternate rule in which they could vote in favor; and

WHEREAS, the Louisiana Supreme Court has already twice declined invitations to adopt any rule similar to ABA Rule 1.17, having first tabled the invitation extended by the HOD in 1998, and then declined to adopt the rule in 2005; and

WHEREAS, in partnerships, limited liability corporations and other multi-member law firms there is already customarily an ethically acceptable "exit strategy" in place for any lawyer, partner or member who retires, otherwise decides to withdraw from the practice of law, or who dies; and


WHEREAS, the adoption of any rule authorizing a solo practitioner to sell his or her practice would involve the selling of his or her clients; and

WHEREAS, the selling of clients would potentially violate multiple Rules of Professional Conduct; and

WHEREAS, the House of Delegates June 2011 adoption of the Resolution re ABA Rule 1.17 was ill advised and based upon insufficient information so as to make an informed decision on the proposed Resolution.

NOW THEREFORE BE IT RESOLVED, that the House of Delegates hereby void its June, 2011 Resolution urging the Louisiana Supreme Court to adopt a Louisiana Rule of Professional Conduct similar to ABA Rule 1.17 allowing the sale of a law practice.

Submitted by:



Val P. Exnicios, Orleans Parish Delegate,
Chair, LSBA Section Council & Chair, Class Action
Mass Torts & Complex Litigation Section

FAILED (by hand vote of 58 for and 68 against)
HOUSE OF DELEGATES
JUNE 7, 2012
DESTIN, FL

FAILED (by hand vote of 58 for and 68 against)
BOARD OF GOVERNORS
JUNE 8, 2012
DESTIN, FL

**RESOLUTION OF THE LSBA HOUSE OF DELEGATES
TO ADOPT RULE 1.17 OF THE AMERICAN BAR ASSOCIATION MODEL RULES OF
PROFESSIONAL CONDUCT AS RULE 1.17 OF THE LOUISIANA RULES OF
PROFESSIONAL RESPONSIBILITY**

WHEREAS, the American Bar Association Model Rules of Professional Conduct have contained Rule 1.17 regulating the practice of law and specifically applying to the sale of a law practice, copy of which is attached hereto as Exhibit 1.17, since 1990; and

WHEREAS, this rule has been adopted as part of the Rules of Professional Conduct in forty (40) of these United States; and

WHEREAS, although the designation of this rule has been reserved for its adoption, Louisiana has never adopted this rule; and

WHEREAS, the adoption of this rule would greatly benefit the practice of law by assisting and providing a vehicle for transition of many elderly lawyers and widowed spouses of lawyers, and in many other instances;

WHEREAS, there is no sufficient reason of public policy or professional responsibility to deny this legitimate and well regulated legal transaction to the lawyers of Louisiana and/or their spouses and children, much less to allow it without at least a minimum of regulation;

WHEREAS, on June 29, 2011, this House of Delegates voted to recommend the adoption of ABA Rule 1.17 subject to review by the Rules of Professional Conduct Committee;

WHEREAS, in its meeting of December 1, 2011, the Rules of Professional Conduct Committee considered proposed language, and voted to recommend the same to the House of Delegates;

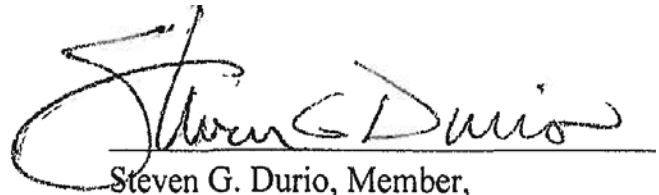
WHEREAS, on March 1, 2012, the Rules of Professional Conduct Committee met again and voted to rescind its prior approval and recommendation, and not to provide any language to the House of Delegates; and

WHEREAS, the attached language is taken from the original rule language approved by this House of Delegates in June 2011, and the proposed amendments and comments which were considered by the Rules of Professional Conduct Committee in its meeting of March 29, 2012;

THEREFORE, BE IT RESOLVED that the Association urge the Louisiana Supreme Court to adopt the attached proposed Rule 1.17 as Rule 1.17 of the Louisiana Rules of Professional Responsibility.

Respectfully submitted,

Louisiana State Bar Association
House of Delegates

A handwritten signature in black ink, reading "Steven G. Durio". The signature is written in a cursive style with a large, looping initial "S". A horizontal line is drawn across the signature.

Steven G. Durio, Member,
Fifteenth Judicial District
April 24, 2012

PROPOSED Louisiana Rule 1.17: Transfer of a Law Practice

A law practice may not be transferred unless the following conditions are satisfied:

- (a) The conveying lawyer has not been transferred to disability inactive status, suspended, disbarred or permanently resigned from the practice of law in lieu of discipline, and permanently ceases to engage in the practice of law, or has disappeared or died;
- (b) The entire law practice is transferred to another lawyer admitted and currently eligible to practice in this jurisdiction.
- (c) At least ninety (90) days in advance of the transfer, actual notice, either by in-person consultation or by U.S. mail, sent both first class as well as using certified mail, return receipt requested, is given to each of the clients of the law practice being transferred indicating:
 - (1) the proposed transfer of the law practice;
 - (2) the identity and background of the lawyer or law firm that proposes to acquire the law practice, including principal office address, number of years in practice in Louisiana, and disclosure of any prior formal discipline for professional misconduct, as well as the status of any disciplinary proceeding currently pending in which the lawyer or law firm is a named respondent;
 - (3) the client's right to choose and retain other counsel and/or to take possession of the client's file(s); and
 - (4) the fact that the client's consent to the transfer of the client's file(s) will be presumed if the client does not take any action or does not otherwise object within ninety (90) days of receipt of the notice.
- (d) In addition to the advance notice to each client described above, at least thirty (30) days in advance of the transfer, an announcement or notice of the transfer of the law practice, including the proposed date of the transfer, the name of the transferring lawyer, the name(s) of the lawyer(s) or law firm(s) to whom the law practice will be transferred, and the address and telephone number where any person entitled to do so may object to the proposed transfer and/or take possession of a client file, shall also be published: 1) in the *Louisiana Bar Journal*; and 2) once a week for at least two (2) consecutive weeks in a newspaper of general circulation in the city or town (or parish if located outside a city or town) in which the principal office of the law practice is located. The announcement or notice required by this Rule does not fall within the scope of Rules 7.1 through 7.10 of these Rules.
- (e) The fees or costs charged clients shall not be increased by reason of the transfer.

- (f) (1) A lawyer or law firm that proposes to acquire a law practice may be provided, initially, with only enough information regarding the matters involved reasonably necessary to enable the lawyer or law firm to determine whether any conflicts of interest exist. If there is reason to believe that the identity of a client or the fact of representation itself constitutes confidential information under the circumstances, such information shall not be provided to the acquiring lawyer or law firm without first advising the client of the identity of the acquiring lawyer or law firm and obtaining the client's informed consent in writing to the proposed disclosure.

If the acquiring lawyer or law firm determines that a conflict of interest exists prior to reviewing the information, or determines during the course of review that a conflict of interest exists, the lawyer or law firm shall not review or continue to review the information unless the conflict has been disclosed to and the informed written consent of the client has been obtained.

- (2) A lawyer or law firm that proposes to acquire a law practice shall maintain the confidentiality of and shall not use any client information received in connection with the proposed transfer in the same manner and to the same extent as if the clients of the law practice were already the clients of that acquiring lawyer or law firm.
- (g) Consistent with Rule 1.16(c) of these Rules, before responsibility for a matter in litigation can be transferred as part of a law practice, any necessary notice to and permission of a tribunal shall be given/obtained.
- (h) Notwithstanding any transfer, the client shall retain unfettered discretion to terminate the transferor or transferee lawyer or law firm at any time, and upon termination the transferor or transferee lawyer in possession shall return such client's file in accordance with Rule 1.16(d) of these Rules.
- (i) Notwithstanding any other provision to the contrary, the transfer of any and all contingency fee matters shall not be effective unless and until the client executes a new contingency fee contract with the transferee lawyer or law firm.

**APPROVED AS AMENDED
HOUSE OF DELEGATES
JUNE 7, 2012
DESTIN, FL**

**APPROVED AS AMENDED
BOARD OF GOVERNORS
JUNE 8, 2012
DESTIN, FL**

RESOLUTION PROPOSED BY THE RULES OF
PROFESSIONAL CONDUCT COMMITTEE OF THE
LOUISIANA STATE BAR ASSOCIATION

WHEREAS, the LSBA Rules of Professional Conduct Committee (the "Committee") was subsequently established, appointed and has been charged, as part of its mission, to monitor and evaluate developments in legal ethics and, when appropriate, to recommend changes to the Louisiana Rules of Professional Conduct; and

WHEREAS, the Responsibilities of a Prosecutor are essential to the Rule of Law and the criminal justice system; and

WHEREAS, the Committee formed a Subcommittee to examine, research, study and consider changes made to the ABA Model Rule of Professional Conduct 3.8, Special Responsibilities of a Prosecutor, by the American Bar Association in 2009 and whether the Louisiana Rules of Professional Conduct should be changed to incorporate the newly revised ABA Model Rule 3.8; and

WHEREAS, the Subcommittee examined, researched, studied, took comment and considered the revised ABA Model Rule 3.8 and elected not to recommend the adoption of same to the Committee; and

WHEREAS, after the rejection of the revised ABA Model Rule of Professional Conduct 3.8, the Committee examined, researched and considered an alternative version to LA Rule of Professional Conduct 3.8 entitled, Louisiana Rule of Professional Conduct Rule 3.8, Special Responsibilities of a Prosecutor and Former Prosecutor (Attached and labeled Exhibit A): and

WHEREAS, the Committee, through its open process, sought, received and acted upon viewpoints from throughout the legal community; and

WHEREAS, the Committee distributed information about the Committee's work on the LSBA web-site and through the weekly email communication, LA Bar Today; and

WHEREAS, the Committee is comprised of LSBA members from all geographic areas of the state and practice groups; and

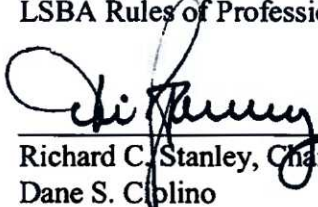
WHEREAS, the Committee solicited and received comment from both criminal defense attorneys and the district attorneys throughout the state;

WHEREAS, the proposed rule is supported by both the LA District Attorneys' Association and the Louisiana Innocence Project;

WHEREAS, the Committee recommends that the attached revision to the LA Rule of Professional Conduct 3.8, labeled Exhibit A, be adopted.

NOW THEREFORE BE IT RESOLVED THAT the LSBA House of Delegates approve the attached recommendations of the LSBA Rules of Professional Conduct Committee and that those recommendations be submitted to the Court for its consideration.

**Respectfully submitted,
LSBA Rules of Professional Conduct Committee**



Richard C. Stanley, Chair

Dane S. Ciolino

Shaun G. Clarke

Val P. Exnicios

Sam N. Gregorio

Harry S. Hardin, III

Paul J. Hebert

Richard K. Leefe

Christine Lipsey

William M. Ross

Leslie J. Schiff

Marta Ann Schnabel

Joseph L. Shea, Jr.

Edward J. Walters, Jr.

Lauren A. McHugh, Supreme Court Liaison

Charles B. Plattsmier, Disciplinary Liaison

This 26th day of April, 2012.

EXHIBIT "A"

PROPOSED RULE 3.8. SPECIAL RESPONSIBILITIES OF A PROSECUTOR AND FORMER PROSECUTOR

With regard to any person charged with a criminal offense or serving any sentence in connection therewith, the prosecutor or former prosecutor, where applicable, in a criminal case shall:

- (a) refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause;
- (b) make reasonable efforts to assure that the accused has been advised of the right to, and the procedure for obtaining, counsel and has been given reasonable opportunity to obtain counsel;
- (c) not seek to obtain from an unrepresented accused a waiver of important pretrial rights, such as the right to preliminary hearing;
- (d) make timely disclosure to the defense of all evidence or information known to the prosecutor or former prosecutor that the prosecutor or former prosecutor knows, or reasonably should know, either tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor or former prosecutor, except when the prosecutor or former prosecutor is relieved of this responsibility by a protective order of the tribunal;
- (e) Not subpoena a lawyer in a grand jury or other criminal proceeding to present evidence about a past or present client unless the prosecutor reasonably believes:
 - (1) the information sought is not protected from disclosure by any applicable privilege;
 - (2) the evidence sought is essential to the successful completion of an ongoing investigation or prosecution; and
 - (3) there is no other feasible alternative to obtain the information;
- (f) except for statements that are necessary to inform the public of the nature and extent of the prosecutor's or former prosecutor's action and that serve a legitimate law enforcement purpose, refrain from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused and exercise reasonable care to prevent investigators, law enforcement personnel, employees or other persons assisting or associated with the prosecutor in a criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making under Rule 3.6 or this Rule.

APPROVED
HOUSE OF DELEGATES
JUNE 7, 2012
DESTIN, FL

APPROVED
BOARD OF GOVERNORS
JUNE 8, 2012
DESTIN, FL

LOUISIANA STATE BAR ASSOCIATION

**JOINT RESOLUTION BAR
GOVERNANCE COMMITTEE and
AD HOC LEGISLATIVE POLICY COMMITTEE**

WHEREAS, the Bylaws of the Louisiana State Bar Association set forth the composition of the Legislation Committee, the scope and limitations of its activities, the adoption of positions, the publication of these positions, and methodology for objections to positions;

WHEREAS, the Bar Governance Committee in 2011/2012 was charged with studying these provisions of the Bylaws to determine where clarifications and/or modifications might be beneficial;

WHEREAS, in June 2011 then LSBA President Michael A. Patterson appointed an Ad Hoc Legislative Policy Committee to study a number of issues as related to the LSBA's legislative activities, including ensuring that these efforts were focused on core activities and ensuring full participation by committee members;

WHEREAS, both committees were studying the same provisions of the Bylaws and were making plans to propose to the House of Delegates amendments to these provisions; and

WHEREAS, it was determined that a joint resolution would be more efficient in that it would address all areas under consideration and provide a comprehensive document for consideration by the House of Delegates.

NOW THEREFORE BE IT RESOLVED, that the House of Delegates approve the amendments to the Bylaws as follows, as set forth in the attached Appendix A:

- Article IX, Section 1 - to clarify existing provisions with regard to committee composition, to add language to allow for the appointment of proxies, and to add language which provides for removal for cause;
- Article X, Section 2 - to add new language to define criteria for determining positions;
- Article X, Section 4 - modifies procedures for instances where bills are materially amended after LSBA has taken positions;
- Article X - deletes language regarding objections to legislative positions and procedures for arbitration;
- Article XI - creates new Article which addresses objection to use of Bar dues, refunds and arbitration.

Respectfully Submitted by:

BAR GOVERNANCE COMMITTEE

AD HOC LEGISLATIVE POLICY
COMMITTEE



S. Guy deLaup, Chair



John H. Musser IV, Chair

BAR GOVERNANCE COMMITTEE

MEMBERS

Richard L. Becker
Robert L. Bussey
Joseph L. Caverly
David L. Colvin
Stephen I. Dwyer
Val P. Exnicios
Trent A. Garrett, Sr.
Edmund J. Giering IV
Barry H. Grodsky
Franchesca L. Hamilton-Acker
C. Kevin Hayes
Jay M. Jalenak, Jr.
Yolanda D. Montgomery
Charles M. Raymond
Jeffrey A. Riggs
Valerie T. Schexnayder
Lawrence P. Simon, Jr.
Patrick A. Talley, Jr.
Sharonda R. Williams
Zebulon M. Winstead
Phillip A. Wittmann

AD HOC LEGISLATIVE POLICY

COMMITTEE MEMBERS

B. Scott Andrews
John F. DeRosier
Charles D. Elliott
Barry H. Grodsky
Keenan K. Kelly
Michael W. McKay
Darrel J. Papillion
Bernadette S. Tomeny
J. David Ziober

APPENDIX A

ARTICLE IX. STANDING COMMITTEES

Section 1. Creation

The following are the standing committees. The number of members of such committees, except as provided for hereinafter, shall be set by the President, subject to approval of the Board of Governors.

(5) **Legislation** - Consisting of twenty-five (25) members in good standing of this Association: fifteen (15) elected by and from the House of Delegates and ten (10) members appointed by the President. All members shall serve three-year terms and terms shall be staggered to ensure experience and continuity. The President shall appoint a chair from the membership of the committee, which chair shall serve a one-year term.

Each President shall appoint one (1) member from Nominating Committee District 1; one (1) member from Nominating Committee District 2; and one (1) member from Nominating Committee District 3. Every third president shall also appoint one (1) member from the state at-large.

The House of Delegates shall elect its committee members at its June meeting for terms that commence on July 1 immediately following the election. To ensure geographically diverse representation, there shall be no more than three (3) House of Delegates representatives from a judicial district at any given time.

- (a) The Legislation Committee shall have the following functions:
1. **Inform** - To inform the membership of legislation or proposed legislation of interest to the legal profession.
 2. **Assist** - To assist the state legislature by providing information on substantive and procedural developments in the law, disseminating information to the membership, identifying resources available to the legislature, and providing other appropriate non-partisan assistance.
 3. **Advocate** - To advocate for the legal profession and the public on issues affecting the profession, the administration of justice and the delivery of legal services in accordance with the policies and procedures set forth in Article X of these Bylaws.

(b) Legislation Committee members, by running for their positions or accepting appointments, are committing to advance preparation, and to participation in committee meetings. If a member is unable to participate, voting by proxy shall be permitted but only as hereinafter provided:

1. The proxy must represent the same constituency as the member for whom he/she is

serving as proxy;

- a proxy for a member elected by and from the House of Delegates must be a member of the House of Delegates;
- a proxy for a member representing a Nominating Committee district must have his/her preferred mailing address in that district.

2. No person may serve as a proxy for more than one member of the committee.
3. No member of the committee may serve as a proxy for another member of the committee.

(c) Should a committee member fail to appoint a proxy by the established deadline, the President shall immediately appoint a proxy to represent that committee member for that meeting. The President shall use his/her best efforts to appoint a proxy that meets the qualifications of clauses 1, 2 and 3 of the preceding paragraph (b).

(d) Committee members may be removed by the President for cause, with cause including but not limited to failure to properly prepare for or participate in committee meetings.

(Amended June 10, 1988; June 27, 2002; January 24, 2004; June 10, 2004; January 21, 2006; January 12, 2008; June 12, 2008; June 12, 2009)

ARTICLE X. LEGISLATIVE POSITIONS

1. Scope and Limitations

The Legislation Committee's activities with respect to recommending consideration or adoption of a legislative position by the Association may include matters involving issues affecting the profession, the regulation of attorneys and the practice of law, the administration of justice, the availability and delivery of legal services to society, the improvement of the courts and the legal profession, and such other matters consistent with the mission and purposes of the Association. The Committee shall not involve itself in legislation which is ideological in nature, unrelated to the practice of law, or which is unnecessarily divisive.

2. Criteria for Determining Positions

To assist in the determination of the Association's involvement, priorities and implementation of legislative positions, the following factors should be considered:

- a. **Importance** to the Bar, the legal profession, the administration of justice and to society as a whole.
- b. **Expectations** of the public, legislators, and members of the profession regarding the Bar's role in the particular issue involved.
- c. **Level of support** within the profession. Is it a matter of organization-wide interest, or is it limited to a few interested parties?
- d. **Likelihood of success** within the legislative process.
- e. **Expertise of lawyers as lawyers.** Do lawyers have a unique province of understanding or unique role in the issue because of their training, knowledge and experience as lawyers?
- f. **Currency of issue.** An appraisal of the currency or relevance of a matter. Would it likely capture attention of key decision-makers in the reasonable foreseeable future?

- g. **Image of the profession.** A judgment of how positively the general or the specific public will view the profession in light of a particular issue or position.
- h. **Importance to the practice of law.** This deals with the "trade" issues which affect lawyers as lawyers regulating or influencing the basic practice of law.
- i. **Opportunity for impact.** Will a Bar position or effort have an impact on actions of decision-makers? Will it contribute to resolution of the issue?

3. Adoption of Legislative Positions

Recommendations from the Legislation Committee concerning consideration or adoption of a position on pending or proposed legislation shall be presented to the Board of Governors in accordance with the following procedures:

- a. A majority of the Legislation Committee in attendance at the meeting(s) called for that purpose must approve any recommendation(s) to the Board of Governors.
- b. Recommendations from the Legislation Committee shall be accompanied by an explanation of the proposed position(s) and the reasons for adoption.
- c. In the event that the Legislation Committee has recommendations for consideration by the Board of Governors, the Board of Governors shall meet electronically, via conference call or in person as called by the President.
- d. Recommendations from the Legislation Committee shall be submitted to the Board of Governors prior to deliberation.
- e. A recommendation of a position on pending or proposed legislation that is presented by the Legislation Committee to the Board of Governors shall be the position of the Association on that legislation, unless the recommendation is disapproved by a vote of at least seventy-five percent (75%) of the Board's members present and voting at a meeting at which the recommendation is considered. If the Legislation Committee's recommendation on legislation is disapproved by the requisite vote of the Board, the Association shall not take a position on that legislation, absent a further recommendation on that legislation by the Legislation Committee that is not disapproved by the Board of Governors in the manner provided in this Section.
- f. In the event a member of the Board of Governors desires Board consideration of a bill not presented to the Board by the Legislation Committee, the Board must first approve such consideration by a seventy-five percent (75%) vote of the Board's members present and voting. Action on the bill is subject to the same seventy-five percent (75%) vote of the Board's members present and voting as bills presented by the Legislation Committee.

(Amended January 12, 2008; June 12, 2009)

4. Changes to Legislation Where Louisiana State Bar Association Has Adopted Position

It is anticipated that bills may be materially amended after the Louisiana State Bar Association has expressed its support or opposition. In such instances, the following procedures shall be followed.

- a. The Lobbyist shall consult with the Executive Committee on the bill(s) in question and they shall formulate recommendations based on the bill(s) in question.
- b. The LSBA will electronically transmit this information to members of the Board of Governors and Legislation Committee, along with a recommended position the Executive Committee

believes is most consistent with the Board of Governors' original vote, along with a timeline for submitting comments, c. Following the comment period, the Executive Committee shall meet to consider the comments of the Board of Governors and Legislation Committee and determine whether to change the Association's position on the bill. (*Added January 22, 2005; Amended January 12, 2008*)

5. Publication of Legislative Positions

The Louisiana State Bar Association shall timely publish notice of adoption of legislative positions in at least one of its regular communications vehicles and shall send electronic notice of adoption of legislative positions to Association members.

(*Amended January 12, 2008*)

ARTICLE XI. LEGISLATIVE POSITIONS AND PUBLIC POLICY 1.

Objection to Use of Bar Dues

A. Submission of Objections

A member of the Louisiana State Bar Association who objects to the use of any portion of the member's bar dues for activities he or she considers promotes or opposes political or ideological causes may request the Board to review the member's concerns to determine if the Board agrees with the member's objections. Member objections must be filed as follows:

- a. Any objection must be filed within forty-five (45) days of the date of the Bar's publication of notice of the activity to which the member is objecting.
- b. Member objections must be in writing and must be filed with the Executive Director of the Association.
- c. Failure to object within the time period and in the manner set forth above shall constitute a waiver of any right to object.

After a written objection has been received, the Executive Director shall promptly determine the pro rata amount of the objecting member's membership dues at issue, and such amount shall be placed in escrow pending determination of the merits of the objection.

Upon the deadline for receipt of written objections, the Board of Governors shall have sixty (60) days in which to decide whether to give a pro rata refund to the objecting member(s) or to refer the action to arbitration.

B. Refunds without Arbitration

In the event the Board of Governors orders a refund, the objecting member's right to the refund shall immediately vest, although the pro rata amount of the objecting member's membership dues at issue shall remain in escrow until the conclusion of the Louisiana State Bar Association's audit for the fiscal year in which the objection was made, which shall include final independent verification of the appropriate refund payable. The Louisiana State Bar Association shall provide such refund within 30 days of independent verification of the amount of the refund. The LSBA shall pay the refund together with interest calculated at the statutory rate of interest on judgments as of the

date the objecting member's membership dues at issue were received by the Louisiana State Bar Association, for the period commencing with the date of receipt of the membership dues and ending on the date of payment of the refund by the Louisiana State Bar Association.

Any refund of a pro rata share of the member's membership dues shall be for the convenience of the LSBA, and shall not be construed as an admission that the activity or action to which the member objected was or would not have been within the purposes or limitations of the Bylaws.

C. Arbitration

In the event the Board of Governors orders arbitration, the arbitration panel shall be composed of three members of the Bar and shall be constituted as soon as practicable. The objecting member(s) shall select one member of the arbitration panel, the LSBA Executive Committee shall choose the second panel member, and those two shall choose the third member. In the event the two members are unable to agree, the Chief Justice of the Louisiana Supreme Court, or his/her designee, shall appoint the third member.

The Bar shall thereafter prepare a written response to the objection and serve a copy of the response on the objecting member(s). The panel shall thereafter confer and decide whether the matters at issue are constitutionally appropriate for funding from the membership dues and, if not, whether the pro rata refund was correctly computed.

The panel shall render a final written report to the objecting member(s) and the Board of Governors within forty-five (45) days of its constitution. The decision shall be binding as to the objecting member(s) and the Bar. If the panel concludes the matters at issue are appropriately funded from membership dues, there shall be no refund and the Bar shall be free to expend the amount in escrow. If the panel determines that the matters at issue are inappropriately funded from membership dues, the panel shall order a refund of the pro rata amount, subject to the same independent verification as set forth in Section 1. B. above, to the objecting member(s). In the event a refund is ordered, the Bar shall provide such refund within thirty (30) days of the date of the report, together with interest calculated at the legal rate of interest.

**APPROVED APRIL 20, 2012
NEW ORLEANS, LA**

**AD HOC LEGISLATIVE POLICY COMMITTEE and
BAR GOVERNANCE COMMITTEE**

APPENDIX A

ARTICLE IX. STANDING COMMITTEES

Section 1. Creation

The following are the standing committees. The number of members of such committees, except as provided for hereinafter, shall be set by the President, subject to approval of the Board of Governors.

(5) **Legislation** - Consisting of twenty-five (25) members in good standing of this Association: fifteen (15) elected by and from the House of Delegates and ten (10) members appointed by the President. All members ~~except the chair~~ shall serve three-year terms and terms shall be staggered to ensure experience and continuity. The President shall appoint a chair from the membership of the committee. ~~This appointment is for, which chair shall serve~~ a one-year term.

Each President shall appoint one (1) member from Nominating Committee District 1-; one (1) member from Nominating Committee District 2, and one (1) member from Nominating Committee District 3-; ~~and~~ Every third president shall also appoint one (1) member from the state at-large.

The House of Delegates shall elect its committee members at its June meeting for terms that commence on July 1 immediately following the election. To ensure geographically diverse representation, there shall be no more than three (3) House of Delegates representatives from a judicial district at any given time.

(a) The Legislation Committee shall have the following functions:

1. **Inform** - To inform the membership of legislation or proposed legislation of interest to the legal profession.

2. **Assist** - To assist the state legislature by providing information on substantive and procedural developments in the law, disseminating information to the membership, identifying resources available to the legislature, and providing other appropriate non-partisan assistance.

3. **Advocate** - To advocate for the legal profession and the public on issues affecting the profession, the administration of justice and the delivery of legal services in accordance with the policies and procedures set forth in Article X of these Bylaws.

(b) Legislation Committee members, by running for their positions or accepting appointments, are committing to advance preparation, and to participation in committee meetings. If a member is unable to participate, voting by proxy shall be permitted but only as hereinafter provided:

1. The proxy must represent the same constituency as the member for whom

he/she is serving as proxy:

- a proxy for a member elected by and from the House of Delegates must be a member of the House of Delegates;
 - a proxy for a member representing a Nominating Committee district must have his/her preferred mailing address in that district.
2. No person may serve as a proxy for more than one member of the committee.
 3. No member of the committee may serve as a proxy for another member of the committee.

(c) Should a committee member fail to appoint a proxy by the established deadline, the President shall immediately appoint a proxy to represent that committee member for that meeting. The President shall use his/her best efforts to appoint a proxy that meets the qualifications of clauses 1, 2 and 3 of the preceding paragraph (b).

(d) Committee members may be removed by the President for cause, with cause including but not limited to failure to properly prepare for or participate in committee meetings.

(Amended June 10, 1988; June 27, 2002; January 24, 2004; June 10, 2004; January 21, 2006; January 12, 2008; June 12, 2008; June 12, 2009)

ARTICLE X. LEGISLATIVE ~~POLICIES~~ POSITIONS

1. Scope and Limitations

The Legislation Committee's activities with respect to recommending consideration or adoption of a legislative position by the Association may include matters involving issues affecting the profession, the regulation of attorneys and the practice of law, the administration of justice, the availability and delivery of legal services to society, the improvement of the courts and the legal profession, and such other matters consistent with the mission and purposes of the Association. The Committee shall not involve itself in legislation which is ideological in nature, unrelated to the practice of law, or which is unnecessarily divisive.

2. Criteria for Determining Positions

To assist in the determination of the Association's involvement, priorities and implementation of legislative positions, the following factors should be considered:

- a. **Importance** to the Bar, the legal profession, the administration of justice and to society as a whole.
- b. **Expectations** of the public, legislators, and members of the profession regarding the Bar's role in the particular issue involved.
- c. **Level of support** within the profession. Is it a matter of organization-wide interest, or is it limited to a few interested parties?
- d. **Likelihood of success** within the legislative process.
- e. **Expertise of lawyers as lawyers.** Do lawyers have a unique province of understanding or unique role in the issue because of their training, knowledge and experience as lawyers?

- f. Currency of issue. An appraisal of the currency or relevance of a matter. Would it likely capture attention of key decision-makers in the reasonable foreseeable future?
- g. Image of the profession. A judgment of how positively the general or the specific public will view the profession in light of a particular issue or position.
- h. Importance to the practice of law. This deals with the "trade" issues which affect lawyers as lawyers regulating or influencing the basic practice of law.
- i. Opportunity for impact. Will a Bar position or effort have an impact on actions of decision-makers? Will it contribute to resolution of the issue?

| 23. Adoption of Legislative Positions

Recommendations from the Legislation Committee concerning consideration or adoption of a position on pending or proposed legislation shall be presented to the Board of Governors in accordance with the following procedures:

- a. A majority of the Legislation Committee in attendance at the meeting(s) called for that purpose must approve any recommendation(s) to the Board of Governors.
- b. Recommendations from the Legislation Committee shall be accompanied by an explanation of the proposed position(s) and the reasons for adoption.
- c. In the event that the Legislation Committee has recommendations for consideration by the Board of Governors, the Board of Governors shall meet electronically, via conference call or in person as called by the President.
- d. Recommendations from the Legislation Committee shall be submitted to the Board of Governors prior to deliberation.
- e. A recommendation of a position on pending or proposed legislation that is presented by the Legislation Committee to the Board of Governors shall be the position of the Association on that legislation, unless the recommendation is disapproved by a vote of at least seventy-five percent (75%) of the Board's members present and voting at a meeting at which the recommendation is considered. If the Legislation Committee's recommendation on legislation is disapproved by the requisite vote of the Board, the Association shall not take a position on that legislation, absent ~~reconsideration by the Board or~~ a further recommendation on that legislation by the Legislation Committee that is not disapproved by the Board of Governors in the manner provided in this Section.
- f. In the event a member of the Board of Governors desires Board consideration of a bill not presented to the Board by the Legislation Committee, the Board must first approve such consideration by a seventy-five percent (75%) vote of the Board's members present and voting. Action on the bill is subject to the same seventy-five percent (75%) vote of the Board's members present and voting as bills presented by the Legislation Committee.

(Amended January 12, 2008; June 12, 2009)

34. Changes to Legislation Where Louisiana State Bar Association Has Adopted Position

It is anticipated that bills may be materially amended after the Louisiana State Bar Association has expressed its support or opposition. In such instances, the following procedures shall be followed.

- a. ----- The Lobbyist shall consult with the Executive Committee on the bill(s) in question and* they shall formulate recommendations based on the bill(s) in question.

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 0.5"

--- The LSBA will electronically transmit this information to members of the Board of Governors- and Legislation Committee ~~and House of Delegates~~, along with a recommended position the Executive Committee believes is most consistent with the Board of Governors' original voter- , along with a timeline for submitting comments. ~~Board of Governors members. Legislation Committee members and House of Delegates members will have no less than 12 hours to comment on the amendment(s).~~

~~b. b.~~ ~~-----c.~~ Following the comment period, the Executive Committee shall meet to consider the comments of the Board of Governors and Legislation Committee ~~and House of Delegates~~ and determine whether to change the Association's position on the bill.

(Added January 22, 2005; Amended January 12, 2008)

| 4.5 Publication of Legislative Positions

The Louisiana State Bar Association shall timely publish notice of adoption of legislative positions in at least one of its regular communications vehicles and shall send electronic notice of adoption of legislative positions to Association members.

(Amended January 12, 2008)

3. ~~Objection to Legislative Positions~~

~~a. Any member in good standing of the Louisiana State Bar Association may, within 45 days of the date of publication of notice of adoption of a legislative position, file with the executive director a written objection to a particular position on a legislative issue. The identity of an objecting member shall be confidential unless made public by the Louisiana State Bar Association or any arbitration panel constituted under these rules upon specific request or waiver of the objecting member. Failure to object within this time period shall Constitute a waiver of any right to object to the particular legislative issue?~~

~~b. After a written objection has been received, the executive director shall promptly determine the pro-rata amount of the objecting member's membership dues at issue and such amount shall be placed in escrow pending determination of the merits of the objection. The escrow figure shall be independently verified by a certified public accountant.~~

~~c. Upon the deadline for receipt of written objections, the Board of Governors shall have 45 days in which to decide whether to give a pro-rata refund to the objecting member(s) or to refer the action to arbitration.~~

~~d. In the event the Board of Governors orders a refund, the objecting member's right to the refund shall immediately vest although the pro-rata amount of the objecting member's dues at issue shall remain in escrow ~~until the Louisiana State Bar Association's annual audit, which shall include final independent verification of the appropriate refund payable. The Louisiana State Bar Association shall provide such refund within 30 days of independent verification of the amount of the refund. The LSBA shall pay the refund together with interest calculated at the statutory rate of interest on judgments as of the date the objecting member's membership fees were received by the Louisiana State Bar Association, for the period commencing with the date of receipt of the membership fees and ending on the date of payment of the refund by the Louisiana State Bar Association.~~~~

4. Composition of the Arbitration Panel

~~Objections to the legislative positions of the Louisiana State Bar Association may be referred by the Board of Governor to an arbitration panel comprised of three (3) members of the Association, to be randomly selected from the list of arbitrators maintained by the Association. The panel shall be constituted as soon as practicable following the Board's decision to refer a matter to arbitration.~~

~~5;—Procedures for Arbitration Panel~~

- ~~a. Upon a decision by the Board that the matter shall be referred to arbitration, the Louisiana State Bar Association shall promptly prepare a written response to the objection and serve a copy on the objecting member. Such a response and objection shall be forwarded to the arbitration panel as soon as the panel is constituted. Venue for arbitration proceedings conducted pursuant to this rule shall be Orleans Parish, Louisiana; however, for the convenience of the parties or witnesses or in the interest of justice, the proceedings may be transferred upon a majority vote of the arbitration panel. The chair of the arbitration panel shall determine the time, date and place of any proceeding and shall provide notice thereof to all parties. The arbitration panel shall thereafter confer and decide whether the Louisiana State Bar Association proved the greater weight of evidence that the legislative matters at issue are constitutionally appropriate for funding from mandatory LSBA membership dues.~~
- ~~b. The scope of the arbitration panel's review shall be to determine solely whether the legislative matters at issue are within those acceptable activities for which compulsory membership fees may be used under applicable constitutional law.~~
- ~~c. The proceedings of the arbitration panel shall be informal in nature and shall not be bound by the rules of evidence. If requested by an objecting member who is a party to the proceedings, that party and counsel, and any witnesses, may participate telephonically, the expense of which shall be advanced by the requesting party. The decision of the arbitration panel shall be binding on the objecting member and the Louisiana State Bar Association; if the arbitration panel concludes the legislative matters at issue are appropriately funded from mandatory membership dues, there shall be no refund and the Louisiana State Bar Association shall be free to expend the objecting member's pro-rata amount of membership dues held in escrow; if the arbitration panel determines the legislative matters at issue are inappropriately funded from mandatory membership fees, the panel shall order a refund of the pro-rata amount of the membership dues of the objecting member.~~
- ~~d. The arbitration panel shall render a final written report to the objecting member and the Board of Governors within 4-5 days of its constitution;~~
- ~~e. In the event the arbitration panel orders a refund, the Louisiana State Bar Association shall provide such refund within 30 days of independent verification of the amount of the refund, the LSBA shall pay the refund together with interest calculated at the statutory rate of interest on judgments as of the date the objecting member's membership fees at issue were received by the Louisiana State Bar Association, for the period commencing with the date of receipt of the membership fees and ending on the date of payment of the refund by the Louisiana State Bar Association.~~
- ~~f. Arbitrators shall serve without compensation.~~
- ~~g. The arbitration panel shall tax all legal costs and charges of any arbitration conducted pursuant to this rule, to include arbitrator expenses and compensation, in favor of the prevailing party and against the non-prevailing party. When there is more than one party on~~

~~one or both sides of an action, the arbitration panel shall tax such costs and charges against non-prevailing parties as it may deem equitable and fair. Payment by the Louisiana State Bar Association of any arbitration proceeding conducted pursuant to this bylaw, not of costs taxed and collected, shall not be considered to be an expense for legislative activities in calculating the amount of membership dues refunded pursuant to this bylaw.~~
(Added January 24, 2004)

ARTICLE XI. LEGISLATIVE POSITIONS AND PUBLIC POLICY

1. Objection to Use of Bar Dues

A. Submission of Objections.

A member of the Louisiana State Bar Association who objects to the use of any portion of the member's bar dues for activities he or she considers promotes or opposes political or ideological causes may request the Board to review the member's concerns to determine if the Board agrees with the member's objections. Member objections must be files as follows:

- a. Any objection must be filed within forty-five (45) days of the date of the Bar's publication of notice of the activity to which the member is objecting.
- b. Member objections must be in writing and must be filed with the Executive Director of the Association.
- c. Failure to object within the time period and in the manner set forth above shall constitute a waiver of any right to object.

After a written objection has been received, the Executive Director shall promptly determine the pro rata amount of the objecting member's membership dues at issue, and such amount shall be placed in escrow pending determination of the merits of the objection.

Upon the deadline for receipt of written objections, the Board of Governors shall have sixty (60) days in which to decide whether to give a pro rata refund to the objecting member(s) or to refer the action to arbitration.

B. Refunds without Arbitration

In the event the Board of Governors orders a refund, the objecting member's right to the refund shall immediately vest, although the pro rata amount of the objecting member's dues at issue shall remain in escrow until the conclusion of the Louisiana State Bar Association's audit for the fiscal year in which the objection was made, which shall include final independent verification of the appropriate refund payable. The Louisiana State Bar Association shall provide such refund within 30 days of independent verification of the amount of the refund. The LSBA shall pay the refund together with interest calculated at the statutory rate of interest on judgments as of the date the objecting member's membership dues at issue were received by the Louisiana State Bar Association, for the period commencing with the date of receipt of the membership dues and ending on the date of payment of the refund by the Louisiana State Bar Association.

Any refund of a pro rata share of the member's dues shall be for the convenience of the LSBA, and shall not be construed as an admission that the activity or action to which the member

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objected was or would not have been within the purposes or limitations of the Bylaws.

C. Arbitration

In the event the Board of Governors orders arbitration, the arbitration panel shall be composed of three members of the Bar and shall be constituted as soon as practicable. The objecting member(s) shall select one member of the arbitration panel, the LSBA Executive Committee shall choose the second panel member, and those two shall choose the third member. In the event the two members are unable to agree, the Chief Justice of the Louisiana Supreme Court, or his/her designee, shall appoint the third member.

The Bar shall thereafter prepare a written response to the objection and serve a copy of the response on the objecting member(s). The panel shall thereafter confer and decide whether the matters at issue are constitutionally appropriate for funding from the license fees and, if not, whether the pro rata refund was correctly computed.

The panel shall render a final written report to the objecting member(s) and the Board of Governors within forty-five (45) days of its constitution. The decision shall be binding as to the objecting member(s) and the Bar. If the panel concludes the matters at issue are appropriately funded from membership dues, there shall be no refund and the Bar shall be free to expend the amount in escrow. If the panel determines that the matters at issue are inappropriately funded from membership dues, the panel shall order a refund of the pro rata amount, subject to the same independent verification set forth in Section 1. B above, to the objecting member(s). In the event a refund is ordered, the Bar shall provide such refund within thirty (30) days of the date of the report, together with interest calculated at the legal rate of interest.

**UNANIMOUSLY APPROVED
HOUSE OF DELEGATES
JUNE 7, 2012
DESTIN, FL**

**UNANIMOUSLY APPROVED
BOARD OF GOVERNORS
JUNE 8, 2012
DESTIN, FL**

**RESOLUTION PROPOSED BY THE COMMITTEE
ON THE PROFESSION OF THE LOUISIANA STATE
BAR ASSOCIATION**

WHEREAS, the Committee on the Profession ("Committee") was appointed by the LSBA and charged with the responsibility to support and encourage lawyers to exercise the highest standards of integrity, ethics and professionalism in their conduct; to examine systemic issues in the legal system arising out of the lawyer's relationship and duties to his/her clients, other lawyers, the courts, the judicial system and the public good; to provide the impetus and means to positively impact those relationships and duties; to improve access to the legal system; and to improve the quality of life and work/life balance for lawyers;

WHEREAS, the Committee has studied voluntary and mandatory mentoring programs around the country;

WHEREAS, the Committee has examined, reviewed and studied mandatory mentoring programs in place in other states, such as Ohio, Texas and Georgia;

WHEREAS, the Committee has reviewed recommendations from the ABA in this area;


WHEREAS, the Board of Governors approved the concept of mandatory mentoring and authorized President James Davidson to communicate this to the Louisiana Supreme Court and to have the House of Delegates consider the concept of mandatory mentoring;

WHEREAS, the Committee and the LSBA are dedicated to assisting and supporting the Louisiana Supreme Court in the creation and implementation of mandatory mentoring and will work with the Louisiana Supreme Court on this collaborative project; and,

WHEREAS, the Committee recommends that the House of Delegates endorse the concept of mandatory mentoring for new admittees.

NOW THEREFORE BE IT RESOLVED THAT the LSBA House of Delegates approves the concept of mandatory mentoring and authorizes the Committee to continue to work with the Louisiana Supreme Court to fully develop and implement a program for mandatory mentoring for new admittees.

Respectfully submitted,
LSBA Committee on the Profession



Barry H. Grodsky, Chair

Honorable Elizabeth Emy Foote, Vice-Chair
Honorable Joe Giarrusso, Jr. (Ret.), Vice-Chair
Donald W. North, Vice-Chair
Donald R. Abaunza

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Kevin R. Molloy
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Adrian G. Nadeau

Tricia R. Pierre
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Charles M. Samuel
EH Leslie J. Schiff
Honorable Raymond S. Steib, Jr.
Tina L. Suggs
David A. Szwak
Dylan Michelle Tuggle
Honorable Jewel E. Welch, Jr.
Sharonda R. Williams
Alan J. Yacoubian
Honorable Jay C. Zainey
Carlos A. Zelaya, II
John David Ziober

This 27th day of April, 2012.

**UNANIMOUSLY APPROVED
HOUSE OF DELEGATES
JUNE 7, 2012
DESTIN, FL**

**UNANIMOUSLY APPROVED
BOARD OF GOVERNORS
JUNE 8, 2012
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