

**LOUISIANA STATE BAR ASSOCIATION  
BOARD OF GOVERNORS  
NOVEMBER 6, 2004**

**\* M I N U T E S \***

President Michael W. McKay called to order the meeting of the Board of Governors of the Louisiana State Bar Association at 9 a.m., Saturday, November 6, 2004, in Covington, Louisiana. Business was conducted in accordance with the agenda below.

**Agenda Item 1.      Roll Call.**

Present were:

President, Michael W. McKay  
President-Elect, Frank X. Neuner, Jr.  
Secretary, James R. McClelland  
Treasurer, Kim M. Boyle  
Immediate Past President, Wayne J. Lee  
First Board District Representative, Darryl J. Foster  
First Board District Representative, Patricia A. Krebs  
Second Board District Representative, S. Guy deLaup  
Third Board District Representative, Shannon Seiler Dartez  
Fourth Board District Representative, James R. Nieset  
Fifth Board District Representative, Celia R. Cangelosi  
Sixth Board District Representative, William M. Ford  
Eighth Board District Representative, Edwin L. Blewer, Jr.  
At-Large Member, Paula Hartley Clayton  
From the Faculty of Loyola University School of Law, Kathryn V. Lorio  
From the Faculty of Southern University Law Center, Donald W. North  
From the Louisiana State Law Institute, James A. Gray II  
House of Delegates Committee on Liaison Chair, Michael J. Poirrier  
House of Delegates Committee on Liaison Member, Mary E. Heck Barrios

Also present were:

Executive Director, Loretta L. Topey  
Access to Justice Director, Monte T. Mollere  
Practice Assistance Counsel, Cheri Cotogno Grodsky  
Executive Assistant, Ramona K. Meyers  
President-Elect Designee, Marta-Ann Schnabel  
Secretary Designee, E. Wade Shows  
Young Lawyers Section Representative, Mark E. Morice  
Bourgeois Bennett Representative, Eric D. Smith

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Absent were:

Chair, Young Lawyers Section, D.W. "Beau" Sylvester, Jr.

Seventh Board District Representative, Richard L. Fewell, Jr.

At-Large Member, Sheral C. Kellar

At-Large Member, Pamela W. Carter

House of Delegates Committee on Liaison Member, J. Christopher Peters

**Consent Calendar**

The following item was included on the Consent Calendar and moved for approval without discussion and/or debate and unanimously approved.

2. Approval of Minutes.

The minutes of the August 28, 2004 meeting held in New Orleans were approved as prepared.

**Agenda Item 3.      Consideration of Any Item(s) Removed from Consent Calendar.**

No items were removed from the Consent Calendar for further discussion/debate.

**Agenda Item 4.      Group Insurance Committee.**

The Board unanimously approved a request from the Group Insurance Committee authorizing the committee to act on behalf of the Association as regards to the group medical insurance program, with action to be reported to and ratified by the Board at its January 2005 meeting.

**Agenda Item 5.      Audited Financial Statements.**

Mr. Eric Smith of Bourgeois Bennett reviewed the FY 2003/04 audited financial statements and answered Board members' questions. On behalf of the firm he thanked the LSBA for the opportunity to serve as its auditor.

**Agenda Item 6.      LSBA Appointment to Louisiana Attorney Disciplinary Board Administrative Committee.**

Mr. Lee informed the Board that Arlene D. Knighten of Hammond had concluded her first one-year term as the LSBA representative to the LADB Administrative Committee and was eligible for reappointment. Mr. North moved that the Board of Governors recommend to the Supreme Court the appointment of Arlene D. Knighten to a second one-year term as the LSBA representative to the LADB Administrative Committee. The motion was seconded and unanimously approved.

**Agenda Item 7.        Legislative Initiatives.**

- a.     Proxy Tax on Legislative Expenditures.  
President McKay informed the Board that during the audit firm interviews one firm noted that the LSBA was now participating in legislative monitoring and, as a 501(c)(6) organization, is required to provide notices of amounts of membership dues allocable to nondeductible lobbying expenditures or pay a 35% "proxy tax" on the amount of the expenditures. It was the recommendation of the Budget and Executive Committees that an opinion be requested from Bourgeois Bennett on the basis for the tax and that the LSBA pay the taxes for fiscal years 2003-04 and 2004-05. It was further recommended that the House of Delegates be informed of the tax and Bourgeois Bennett opinion in the form of a report. A motion was made that the LSBA pay the proxy tax in total for fiscal years 2003-04 and 2004-05 with a report to the House of Delegates. The motion was seconded and unanimously approved.
- b.     Proposed Procedural Changes to Legislative Policies.  
President McKay reported that Legislative Process Review Committee had met and developed a list of general, committee procedural, House of Delegates procedural and post-House of Delegates meeting recommendations to consider. The committee will meet again in December to finalize their recommendations for presentation to the House at its January meeting.

**Agenda Item 8.        Staff Pension Plan Performance Review.**

Ms. Boyle informed the Board that this matter would be deferred until January 2005.

**Agenda Item 9.        Committee on Alcohol and Drug Abuse/LAP Guidelines.**

President McKay informed the Board that the Committee on Alcohol and Drug Abuse was requesting Board approval of their guidelines, which were written and approved by the Committee in 1992 and reaffirmed at a recent meeting of the Committee's Executive Committee. Mr. McKay noted that committee member James R. Clary, Jr., had submitted a minority report for the Board's consideration. A motion was made by Mr. Neuner and seconded by Mr. Gray that the Board of Governors adopt the guidelines developed by the Committee on Alcohol and Drug Abuse in 1992 and reaffirmed in 2004. The motion was unanimously approved.

**Agenda Item 10.      Policy Manual.**

Ms. Topey informed the Board that a subcommittee had been appointed to review the Expense Reimbursement section of the policy manual and the entire document would be presented to the Board for approval at its January meeting.

**Agenda Item 11. Withdrawal Authorization Form.**

Ms. Boyle noted that staff had developed a Withdrawal Authorization Form requiring two signatures to withdraw funds from investment accounts. Mr. McClelland moved that the proposed Withdrawal Authorization Form be approved as prepared. The motion was seconded by Mr. North and was unanimously approved.

**Agenda Item 12. Audit Firm Selection.**

Ms. Boyle reported on the audit firm interviews and stated that the Budget Committee recommends the hiring of LaPorte Sehrt Romig Hand to perform the audit and 990 filing for fiscal years 2004/2005, 2005/2006 and 2006/2007. The motion was seconded by Mr. Foster and unanimously approved.

**Agenda Item 13. Louisiana Center for Law and Civic Education Funding.**

The Board reviewed a request from the LCLCE for recurring funding of \$50,000 per year for expenses associated with personnel and programming. Ms. Boyle informed the Board that she was concerned regarding the lack of a proposal for the LCLCE to become self-sufficient. She further stated that the Executive Committee considered the request during its meeting and recommended that a subcommittee be appointed by the president to consider alternatives to recurring funding. The issues were discussed and a motion was made by Mr. McClelland that the president appoint a committee to review the LCLCE proposal and study alternative funding with a report and recommendations presented to the Board within the current fiscal year. The motion was seconded by Ms. Boyle and unanimously approved.

**Agenda Item 14. Malpractice Insurance Disclosure.**

The Board then considered a request from the Louisiana Supreme Court for LSBA input on ABA Model Rule requiring lawyers to disclose on their annual registration statements whether they maintain professional liability insurance. President McKay informed the Board that he would send a letter to the Chief Justice informing him that this issue will be brought to the House of Delegates at its January meeting with a report to the Court on action taken by the House.

**Agenda Item 15. Computerized Legal Research.**

President McKay reported on the results of the test drive on the Casemaker/Fastcase computerized legal research products which are being considered as a member benefit. The members who participated in the test drive of both products preferred Fastcase, but it was noted that not all test

drivers had submitted reports. A concern was expressed regarding costs and where the funds for the project would come from. A request was made for a comprehensive comparison between Casemaker and Fastcase and how they supplement Westlaw and Lexis Nexis. Mr. Neuner moved that the president appoint five members of the Board of Governors to review the two products and discuss with the test drivers their experiences and develop a comprehensive, side by side analysis of the two products. The motion was seconded by Ms. Boyle and approved by a vote of 10 in favor, 7 against. It was the consensus of the Board that the report should be completed and presented for action prior to the end of the calendar year. President McKay appointed the following to serve on the committee: James R. Nieset, Mary E. Heck Barrios, S. Guy deLaup, Patricia A. Krebs and James A. Gray II.

**Agenda Item 16. Report of the President.**

- a. Leadership LSBA 2004/2005.  
President McKay reported that the third class of Leadership LSBA for 2004/2005 had been selected and asked for volunteers to serve as mentors for each class member. The 2004/2005 class with mentors are as follows:  
Earl M. Campell, Shreveport (mentor: Kim M. Boyle)  
Jason E. Cantrell, New Orleans (mentor: Wayne J. Lee)  
Erin J. Wilder-Doomes, Baton Rouge (mentor: Kim M. Boyle)  
J. Brian Juban, Baton Rouge (mentor: Donald W. North)  
John T. Nesser IV, New Orleans (mentor: Frank X. Neuner, Jr.)  
Tricia R. Pierre, Lafayette (mentor: Shannon Seiler Dartez)
- b. Committee Appointments and Activities.  
President McKay informed the Board that all committee appointments were complete and committees were beginning to schedule their first meetings.
- c. Section Assessments.  
President McKay stated that he was working with staff to identify an appropriate amount for the assessment that more accurately reflects the services provided by LSBA staff to the sections.
- d. Board of Governors Liaison to Committees.  
President McKay asked that each member of the Board submit to staff the name(s) of the committee(s) they wish to serve as liaison to so that he can make those appointments in the next two weeks.
- e. Midyear Meeting.  
President McKay announced that the 2005 Midyear Meeting would be held January 21 and 22 at the Lod and Carole Cook Conference Center & Hotel in Baton Rouge on the LSU campus. Preliminary plans include meetings of the specialty bar associations, section council and various committees.

- f. 2005 Annual Meeting in Las Vegas.  
President McKay reviewed plans for the 2005 Annual Meeting to be held June 26-28 at Caesars Palace in Las Vegas, Nevada.
- g. Other Matters.  
President McKay presented a letter received from an attorney regarding the unauthorized practice of law by public adjusters. President McKay informed the Board that the letter had been referred to the Public Access and Consumer Protection Committee but a response had not been received. He further stated that the issue was discussed during the Executive Committee and it was their recommendation that the LSBA determine if it has a standing in this issue and, if so, submit a resolution to the House of Delegates that the LSBA file a civil suit seeking a stay in such practices or injunctive relief under the Unfair Trade Practice Act. It was further recommended that the LSBA seek financial assistance for the suit from the Louisiana Trial Lawyers Association and the Louisiana Association of Defense Counsel. A motion was made by Ms. Cangelosi that if the Public Access and Consumer Protection Committee determines that the LSBA has standing in filing a civil suit, and if the LSBA has a reasonable chance of winning, we move forward with the suit and seek financial assistance from the LTLA and the LADC. The motion was seconded by Mr. North. Following further discussion, a motion was made to postpone action until a response is received from the Public Access and Consumer Protection Committee. The motion was seconded and approved.
- h. Title Company Fee Sharing Opinion.  
President McKay reported that the Ethics Advisory Service Committee and its Publications Subcommittee asked the Board to consider publication of certain committee opinions. The Board took no action on this matter, as the committee should decide which opinions to publish.

**Agenda Item 17. Report of the President-Elect.**

Mr. Neuner informed the Board that he and Ms. Grodsky would be visiting the Texas Bar Association to speak with their Continuing Legal Education department on ways the LSBA can increase CLE non-dues income while offering more accessible means of obtaining CLE credit for members.

Mr. Neuner reported that one of his goals as 2005-06 president is to establish a Professionalism Center within the LSBA. To achieve this goal will require the addition of a full time employee. He and Ms. Grodsky will visit the Georgia Bar Association to look at their program's structure.

Mr. Neuner stated that the MCLE Committee had discussed the possibility of combining the current requirement for one hour of professionalism and one hour of ethics into a two hour ethics/professionalism format. He indicated that he would be working with the Professionalism Committee and the MCLE Committee to maintain the current format.

In concluding his report, Mr. Neuner reported that the 2005/2006 Board of Governors Orientation currently scheduled for early April might be moved to later in the month. He stated that an email survey of the Board would be conducted before any changes were made to the current schedule.

**Agenda Item 18. Report of the Secretary.**

Mr. McClelland reported that the *Louisiana Bar Journal* received a Luminary Award from the National Association of Bar Executives Communication Section.

**Agenda Item 19. Report of the Treasurer.**

a. Amendments to FY 2004/2005.

The Board unanimously approved the following FY 2003-04 Budget Amendments approved by the Budget Committee at its meeting on November 5, 2004:

- g** decrease Law School Professionalism Orientation Sponsorships income from \$16,000 to \$15,000;
- g** decrease Nominations & Elections expense from \$62,000 to \$22,000;
- g** decrease Committee Expenses expense from \$50,000 to \$45,000;
- g** decrease Law School Professionalism Programs expense from \$22,000 to \$11,000;
- g** increase Bar Admissions Ceremonies expense from -0- to \$5,000;
- g** increase Together We Can Conference expense from -0- to \$1,000.

b. November 5 Budget Committee Meeting.

Ms. Boyle briefly reported on other actions taken by the Budget Committee during its meeting on November 5.

c. Investments.

Ms. Boyle referred the Board to the investment report contained in the Board manual and stated that a representative of Waters Parkerson would be invited to attend the January Board meeting to provide a more detailed report on the LSBA investment portfolio.

**Agenda Item 20. Report of the Young Lawyers Section.**

Mr. Morice, Young Lawyers Section Secretary, presented the Section's report on behalf of Mr. Sylvester. He reported that the YLS had joined efforts with the Louisiana Center for Law and

Civic Education on their Patriotic Act High School Essay program. He further noted that the High School Mock Trial program was underway and that the Bridging the Gap program designed for newly admitted attorneys was a success with 160 participants.

**Agenda Item 21.      Report of the Executive Director.**

Ms. Topey informed the Board that a detailed report was contained in the materials distributed at the opening of the meeting and highlighted the following items:

- g** CLE seminar income and expenses were consistent with the projected budget;
- g** Practice Assistance and Improvement referrals made by the Office of Disciplinary Counsel increased dramatically in the past year, from 321 referrals in 2003 to 505 referrals from January through October 2004;
- g** Task Force on Diversity Survey was mailed with Section dues notices. The voluntary anonymous survey is being conducted to gather demographic information on LSBA members and will help the Task Force with its assessment of the level of diversity within the LSBA.

In regard to the Task Force on Diversity, Mr. Lee reported that Task Force co-chairs Justice Bernette Joshua Johnson, Mr. Phelps Gay and Task Force member Mr. James George were working with the Inns of Court to encourage strong diversity within the state.

**Agenda Item 22.      Other Matters.**

- a. Voluntary Contributions Checkoff on Attorney Registration Statement and Section Dues Statement.  
Mr. Shows asked if staff could investigate the possibility of allowing attorneys to write one check for multiple donations rather than writing a check for each program they wish to contribute to. Staff was directed to investigate the issue and report back to the Board at its January meeting.
- b. Date of Next Meeting.  
The next meeting of the Board of Governors will be held Saturday, January 22, at the Lod and Carole Cook Conference Center & Hotel in Baton Rouge, in conjunction with the LSBA Midyear Meeting. Additional information on the meeting will be sent to the Board members in December.



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**Agenda Item 23.      Adjournment.**

There being no further business to discuss, the meeting was adjourned at 1:15 p.m.

Respectfully Submitted:

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James R. McClelland  
Secretary

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Date