

LOUISIANA STATE BAR ASSOCIATION
HOUSE OF DELEGATES
9 A.M. ♦ SATURDAY, JANUARY 17, 2009
NEW ORLEANS MARRIOTT AT THE CONVENTION CENTER

MINUTES

I. Certification of Quorum by the Secretary

After concurring with Secretary Mark A. Cunningham, Ms. Foote announced that a quorum had been certified and declared the meeting to be in session. A copy of the attendance roster is attached as an addendum to these Minutes.

II. Recognition of Deceased Members of the House of Delegates.

The House observed a moment of silence in memory of Joseph A. Conino of the 24th Judicial District.

III. Reports of Standing Committees of the House *

No reports either written or oral.

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

1. Elizabeth Erny Foote, President

Ms. Foote waived a formal report but made a few brief announcements to the House.

2. Kim M. Boyle, President-Elect

Ms. Boyle waived her report.

3. Mark A. Cunningham, Secretary

Mr. Cunningham waived his report.

4. Jack K. Whitehead, Jr., Treasurer

Staff distributed Mr. Whitehead's written report and he answered several questions from House of Delegates members.

5. Barry H. Grodsky, Chair, Committee on the Profession

Mr. Grodsky gave an oral report to the House with an update on the committee's activities and programs.

6. Marta-Ann Schnabel, Member, Rules of Professional Conduct Committee

Staff distributed a written report from the committee and Ms. Schnabel gave an overview of this report to the House.

7. Michael W. McKay, Chair, Legislation Committee

Mr. McKay gave an oral report to the House with an update on the committee as reconstituted and its plans for a retreat.

8. H. Minor Pipes III, Co-Chair, Summer School Subcommittee, CLE Program

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Committee

Mr. Pipes gave an oral report to the House.

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

There were no reports either written or oral.

VI. Old Business

Announcement of constitution of Legislation Committee

Ms. Foote referred members to the Legislation Committee roster that was distributed and asked that it be made part of the minutes.

VII. Approval of Minutes

Consideration of Approval of the Minutes of the June 12, 2008 Meeting of the House of Delegates

The following motion was made:

“BE IT RESOLVED, that the minutes of the June 12, 2008 meeting of the House of Delegates are approved.”

The motion was seconded and unanimously approved.

VIII. Resolutions

Member Resolutions

1. Resolution from 22nd Judicial District Delegate Elizabeth Alston proposing that the House of Delegates recommend to the Louisiana Supreme Court that it amend the Rules for Louisiana District Courts to provide counsel the right to designate vacation days or CLE seminar attendance days.

After brief introductory remarks, Ms. Alston made the following motion:

“BE IT RESOLVED that the House of Delegates recommend to the Louisiana Supreme Court that it amend the rules for Louisiana District Courts to provide counsel the right to designate vacation days or CLE attendance days.”

After some discussion Ms. Alston moved to amend the resolution to provide that any recommendation from the House would be submitted to the Louisiana Supreme Court Judicial Administrator. This amendment was seconded and unanimously approved. After a number of delegates spoke to the resolution the question was called and the motion failed.

2. Resolution from 15th Judicial District Delegates Jeffrey A. Riggs and Steven G. “Buzz” Durio proposing that the House of Delegates amend its Rules of Procedure to:

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extend the HOD Liaison Committee members' terms to two years each; expand the Committee from the Chair (voting) and two members to three members and one alternate; and specify how selection of the chair, the members and the alternate will be determined.

Mr. Riggs gave some brief remarks and indicated he was withdrawing the resolution and it would be referred to the Bar Governance Committee.

3. Resolution from LSBA Secretary Mark A. Cunningham, LSBA Board Members Beth E. Abramson and Cloyd Benjamin, Jr. and 15th Judicial District Representative Steven G. "Buzz" Durio (Special BOG Committee to Explore Membership Cards) proposing that the House of Delegates ask the Louisiana Supreme Court to consult with a committee designated by the LSBA President to develop a plan to provide LSBA members with preferred access to courthouses while maintaining courthouse security.

Mr. Durio made the following motion:

"BE IT RESOLVED that the LSBA ask the Louisiana Supreme Court to consult with a committee designated by the LSBA President to develop a plan to provide LSBA members with preferred access to courthouses while maintaining courthouse security."

After a brief discussion the question was called and the motion was approved.

4. Resolution from 24th Judicial District Delegate Robert J. Caluda proposing that:
 - a. The LSBA recommend to the Louisiana Supreme Court that it revoke the new advertising rules scheduled to go into effect on April 1, 2009; or alternatively
 - b. That it reduce the advertising filing fee from \$175.00 to \$10.00 for timely filings and from \$225.00 to \$15.00 for late filings.

After an inquiry by Ms. Foote, Mr. Caluda indicated his preference to consider these matters as two separate resolutions. After some introductory remarks, Mr. Caluda made the following motion:

"BE IT RESOLVED that the LSBA recommend to the Supreme Court that it revoke the new Article XVI, Rule 7 of the Rules of Professional Conduct and reinstate the Rules as they existed prior to June 26, 2008."

Ms. Foote called upon Joseph L. Shea, Jr., who spoke in opposition to the Resolution on behalf of the Rules of Professional Conduct Committee.

Ms. Foote called upon Robert A. Kutcher, Chair of the House of Delegates Liaison Committee, to present the Board of Governor's position against this resolution.

After a number of members spoke both for and against the resolution, the question was called and the motion failed overwhelmingly.

One member requested a roll call vote which the parliamentarian ruled out of order because the request lacked the support required by the rules of the House.

Mr. Caluda then made the following motion:

“BE IT RESOLVED that the House of Delegates recommend to the Louisiana Supreme Court that the \$175.00 fee per advertisement be reduced to \$10.00 and that the \$225.00 late fee per advertisement be reduced to \$15.00.

The motion was seconded. After a brief discussion Minor Pipes III moved to table the resolution and refer it to the Committee on the Profession. The motion was second and carried overwhelmingly.

Section Resolution

5. Resolution from Art, Entertainment and Sports Law Section to amend and restate the section’s Bylaws.

The resolution was withdrawn.

Executive Committee Resolution

6. Resolution from Executive Committee to increase Budget Committee terms of special appointees, HOD representative, BOG representative and YLS representative from one to two years each and to add the Immediate Past President as a member of the Budget Committee.

Immediate Past President S. Guy deLaup moved from the podium to the floor of the House and made the following motion:

“BE IT RESOLVED that the House of Delegates amend the Bylaws to increase the terms on the Budget Committee from one year to two years and to include the Immediate Past President as a member of the committee, with terms to coincide with terms on the Board and the House, all as set forth in the revised resolution.”

The motion was seconded, the question was called and the motion carried unanimously.

IX. Elections

1. Election from the 1st through 19th Judicial Districts of a chairperson and two (2) members of the House of Delegates to the Liaison Committee of the House. The chairperson will serve a one-year term (June 2009 through June 2010) as an ex-officio member of the Board of Governors and shall have the same rights and privileges of all other members of the Board, including the right to vote.

Ms. Foote opened the floor for nominations for Chair of the Liaison Committee. The following motions were made:

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“BE IT RESOLVED that Jeffery A. Riggs of the 15th Judicial District be elected chair of the House of Delegates Liaison Committee.”

“BE IT RESOLVED that C. Kevin Hayes of the 19th Judicial District be elected chair of the House of Delegates Liaison Committee.”

A vote was taken and Mr. Riggs was declared elected Chair of the Liaison Committee for 2009-2010.

Ms. Foote then opened the floor for nominations for two members of the Liaison Committee. The following motions were made:

“BE IT RESOLVED that Douglas L. Bryan of the 12th Judicial District be elected a member of the House of Delegates Liaison Committee.”

“BE IT RESOLVED that C. Kevin Hayes of the 19th Judicial District be elected a member of the House of Delegates Liaison Committee.”

There being no further nominations, Ms. Foote declared the nominations closed and declared Mr. Bryan and Mr. Hayes elected.

2. Election of a member of the House of Delegates to serve on the Budget Committee for the term beginning July 1, 2009.

Due to the passage of Resolution 6, this election was deferred until June 2009.

X. Other Business

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

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

Respectfully Submitted:



Mark A. Cunningham
Secretary

APPROVED BY HOUSE OF DELEGATES

June 12, 2009

Destin, Florida

**RESOLUTION PROPOSED BY ELIZABETH A. ALSTON,
22ND J.D.C. DELEGATE TO THE L.S.B.A. HOUSE OF DELEGATES,**

WHEREAS lawyers benefit from absences from the active practice of law and from attendance at continuing legal education seminars and conferences;

WHEREAS, after returning from a brief respite from a law practice or from an educational event, lawyers are able to provide better services to their clients and to the legal system as a whole;

WHEREAS, the members of the House of Delegates believe that a district court rule providing notice to courts and counsel of a lawyer's intended vacation or attendance at a legal education seminar or conference would have the salutary effect of encouraging lawyers to engage in these worthwhile pursuits;

NOW THEREFORE BE IT RESOLVED THAT the L.S.B.A. House of Delegates recommend that the following amendment to the Rules for Louisiana District Courts be submitted to the Louisiana Supreme Court:

**TITLE I, RULES FOR PROCEEDINGS IN DISTRICT COURTS, FAMILY AND
DOMESTIC RELATIONS COURTS, AND JUVENILE COURTS**

Rule 6.5 Notice of vacation and seminar attendance

Each counsel of record shall have the right to designate vacation days and days of continuing legal education provided said lawyer notifies the clerk of the court and all opposing counsel in writing by separate letters in each case, at ten (10) days prior to such designated dates, and provided said dates do not conflict with a current setting for trial, hearing, deposition, inspection, mediation or discovery deadline in the case. During the dates designated in said letter, opposing parties shall not set any matter for hearing in the case and any such setting is void. If a true emergency situation exists, and if the lawyer providing notice pursuant to this rule does not have co-counsel of record, the Court may grant ex parte emergency relief during the designated time period; provided, however, that notice of the application for said relief is provided twenty-four

hours in advance of the application for said relief, in writing and by telephone message to the absent lawyer's office.

Respectfully submitted,



Elizabeth A. Alston

This 10th day of December, 2008.

**FAILED BY HOUSE OF DELEGATES
JANUARY 17, 2009
NEW ORLEANS, LA**

Vacation rules in other jurisdictions**Iowa Court Rules, Rule 33.2, "Lawyers' duties to other counsel," sub-part (17):**

We will endeavor to accommodate previously scheduled dates for hearings, depositions, meetings, conferences, vacations, seminars or other functions that produce good faith calendar conflicts on the part of other counsel. If we have been given an accommodation because of a calendar conflict, we will notify those who have accommodated us as soon as the conflict has been removed.

Dallas County, Texas, Local Rule 13.04, "Vacation letters:"

Each attorney in charge shall have the right to designate vacation days and days of continuing legal education provided he notifies the clerk of the court and all opposing counsel in writing by separate letters in each case, at ten (10) days, prior to such designated dates, and provided said dates do not conflict with a current setting for trial, hearing, deposition, inspection, mediation or discovery deadline in the case. During the dates designated in said letter, opposing parties shall not set any matter for hearing in the case and any such setting is void. If a true emergency situation exists, the Court may grant ex parte emergency relief during the designated time period.

Crawford County, Pennsylvania, Local Rule L1910.10D, "Personal Continuances:"

Attorneys who desire continuances by reason of their own personal vacations shall notify the Domestic Relations Section of that fact within five (5) days after his/her client is sent notice of the date and time for the conference. Thereafter continuances by reason of attorneys vacations shall not be granted.

Medina County Court of Common Pleas, Ohio, Rule 8, "Continuances," sub-part 8.03:

... Counsel who plan to be away on vacation or otherwise, should notify the Court well in advance of their anticipated-absence: --- After trial-schedule is published, counsel who have a conflict with a scheduled trial date should immediately notify the Court so that their case may be re-scheduled and a replacement case inserted in its stead.

Boone County Circuit and Superior Courts, Indiana, Local Rule LR06-AR00-BLR Rule 30, "Civility," sub-part 15:

We will endeavor to accommodate previously scheduled dates for hearings, depositions, meetings, conferences, vacations, seminars, or other functions that produce good faith calendar conflicts on the part of other counsel. If we have been given an accommodation because of a calendar conflict, we will

notify those who have accommodated us as soon as the conflict has been removed.

Wayne County, Indiana, Local Rule LR89-AR00 Rule 001, "Civility," sub-part 15:

We will endeavor to accommodate previously scheduled dates for hearings, depositions, meetings, conferences, vacations, seminars, or other functions that produce good faith calendar conflicts on the part of other counsel. If we have been given an accommodation because of a calendar conflict, we will notify those who have accommodated us as soon as the conflict has been removed.

Wake County, North Carolina, Local Rule 6, "Responsibilities of Attorneys," sub-part 6.3:

Any attorney who is unable to be present in court by reason of some extenuating circumstance such as vacation, illness, or court conflict shall be responsible for notifying the courtroom Juvenile Court Clerk in advance and either: (1) resolving the conflict with the presiding Juvenile Court Judge and the assigned Assistant District Attorney prior to the scheduled court date, or (2) finding a qualified replacement attorney from the approved list of attorneys who will agree to appear and represent the juvenile in court. If the attorney chooses the second option and locates a replacement attorney, the attorney shall provide sufficient background information about the case to enable the replacement attorney to effectively represent the juvenile.

**RESOLUTION TO THE LOUISIANA BAR ASSOCIATION HOUSE OF DELEGATES
PERTAINING TO COURTHOUSE ACCESS**

WHEREAS, the House of Delegates recognizes that the various security measures implemented by the state courts in Louisiana are necessary and appropriate to deter unlawful conduct and to protect judges and courthouse personnel;

WHEREAS, the House of Delegates further recognizes that these security measures often create delays and inconvenience for the members of the Louisiana State Bar Association and increase the costs of their clients;

WHEREAS, the attorneys of the Louisiana State Bar Association are officers of the court and required to undergo character and fitness reviews before they are admitted to the practice of law by the Louisiana Supreme Court;

WHEREAS, reasonable accommodations can and should be made for members of the Louisiana State Bar Association to provide them with preferred access to courthouses without jeopardizing courthouse security;

NOW, THEREFORE BE IT RESOLVED that the House of Delegates respectfully requests that the Louisiana Supreme Court work with a committee designated by the President of the LSBA whose representation will include an equal number of members of the House of Delegates and Board of Governors to develop a plan to provide members of the Louisiana State Bar Association with preferred access to courthouses while maintaining courthouse security.

Respectfully submitted,



Steven G. "Buzz" Durio

Beth E. Abramsom

Cloyd Benjamin

Mark A. Cunningham

**APPROVED BY HOUSE OF DELEGATES
JANUARY 17, 2009
NEW ORLEANS, LA**

**APPROVED BY BOARD OF GOVERNORS
JANUARY 17, 2009
NEW ORLEANS, LA**



THE
CALUDA
LAW FIRM

ATTORNEY AT LAW • NOTARY PUBLIC

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December 10, 2008

VIA FACSIMILE (504) 566-0930

Mark A. Cunningham, Secretary
Louisiana State Bar Association
601 St. Charles Avenue
New Orleans, LA 70130-3404

Re: LSBA- Proposed Resolutions

Dear Mark:

Please find attached a Resolution and Alternate Resolution which I am proposing for the next LSBA- House of Delegates meeting to be held January 17, 2009.

If you should have any questions, comments or concerns please feel free to contact my office.

Sincerely,

THE CALUDA LAW FIRM

Robert J. Caluda

RJC/sph
enclosure

Resolution

Be it resolved the House of Delegates recommends to the Louisiana Supreme Court that the advertising rules enacted and adopted by the Court on June 26, 2008 with a present effective date of April 1, 2009 be revoked and that Article XVI, Rule 7 of the Rules of Professional Conduct be reinstated as it existed immediately prior to the adoption of new Rule 7 on June 26, 2008.

Alternate Resolution

Be it resolved the House of Delegates recommends to the Louisiana Supreme Court that the fee structure contained in Article XVI Rule 7.4 (d) (7) of the Rules of Professional Conduct be amended from \$175.00 per advertisement to a fee of \$10.00 per advertisement and the late fee amended from \$225.00 to a fee of \$15.00.

**TABLED BY HOUSE OF DELEGATES
JANUARY 17, 2009
NEW ORLEANS, LA**

**Resolution to Amend the Bylaws of the
Louisiana State Bar Association
To Increase Terms of Budget Committee Members
And Add Immediate Past President as a Member**

Submitted by the Executive Committee

WHEREAS, the Budget Committee is comprised of the Treasurer as Chair, and the following members: President; President-Elect; Secretary; one representative each from the Board of Governors, House of Delegates and YLS Council; and two members with fiscal management and oversight experience who are appointed by the Treasurer; and

WHEREAS, the aforementioned officers all serve at least two consecutive years based on their terms of office but the other members serve terms of one-year each; and

WHEREAS, the Association has an annual budget of almost \$6 million and very detailed financial reporting systems; and

WHEREAS, it has proved beneficial for all representatives to serve two consecutive years as members of the Committee; and

WHEREAS, the Immediate Past President has historically participated in meetings of the Budget Committee although he/she is not a voting member; and

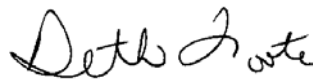
WHEREAS, the Immediate Past President is a member of the Board of Governors and the Executive Committee and generally brings an important historical perspective to discussions concerning financial matters;

NOW THEREFORE BE IT RESOLVED that Article IX, Section 1 of the Bylaws of the Louisiana State Bar Association be amended to change Budget Committee terms from one year to two years for all members for whom term lengths are specified;

AND BE IT FURTHER RESOLVED that the Immediate Past President be added as a member of this Committee; and

AND BE IT FURTHER RESOLVED that the above changes be made as per the attached "Exhibit A."

Respectfully Submitted by:
LSBA Executive Committee



Elizabeth Erny Foote, President

**APPROVED BY HOUSE OF DELEGATES
JANUARY 17, 2009
NEW ORLEANS, LA**

**APPROVED BY BOARD OF GOVERNORS
JANUARY 17, 2009
NEW ORLEANS, LA**

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.

(2) *Budget Committee* - This committee shall prepare and monitor the annual budget and shall perform other duties as delegated to it by the Board of Governors. The committee shall consist of the Treasurer, who shall be the Chair, the President, the President-Elect, the Immediate Past President, the Secretary, one member from the Board of Governors to be elected by the Board for a term of one-two years, one member from the Young Lawyers Section Council to be elected by the Council for a term of one-two years, one member from the House of Delegates to be elected by the House for a term of one-two years, and two members appointed by the Treasurer for terms of one-two years each. The members appointed by the Treasurer shall have experience in the areas of fiscal management and oversight. The Board shall have the right to fill any vacancies on the committee.