

**LOUISIANA STATE BAR ASSOCIATION
BOARD OF GOVERNORS
November 5, 2005**

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

President Frank X. Neuner, Jr. called to order the meeting of the Board of Governors of the Louisiana State Bar Association at 9 a.m., Saturday, November 5, 2005, in Lafayette, Louisiana. Business was conducted in accordance with the agenda below.

Agenda Item 1. Roll Call

Present were:

President, Frank X. Neuner, Jr.
President-Elect, Marta-Ann Schnabel
Secretary, E. Wade Shows
Treasurer, Kim M. Boyle
Immediate Past President, Michael W. McKay
Chair, Young Lawyers Section, Dona K. Renegar
First Board District Representative, Patricia A. Krebs
First Board District Representative, Ronald J. Sholes
Second Board District Representative, Joseph A. Conino
Third Board District Representative, Steven G. Durio
Fourth Board District Representative, James R. Nieset
Fifth Board District Representative, Celia R. Cangelosi
Sixth Board District Representative, William M. Ford
Seventh Board District Representative, Richard L. Fewell, Jr.
At-Large Member, Paula Hartley Clayton
At-Large Member, Shannan L. Hicks
From the Faculty of LSU Paul M. Hebert Law Center, John M. Church
From the Faculty of Tulane University Law School, Raymond T. Diamond
From the Louisiana State Law Institute, Joseph W. Mengis
House of Delegates Committee on Liaison Chair, James E. Boren
House of Delegates Committee on Liaison Member, Timothy A. Maragos
House of Delegates Committee on Liaison Member, Andrew Reed

Also present were:

Executive Director, Loretta Larsen
Access to Justice Director, Monte T. Mollere
Member Services Director, Germaine A. Tarver
Practice Assistance Counsel, Cheri Cotogno Grodsky
Executive Assistant, Ramona K. Meyers
S. Guy deLaup, President-Elect Nominee
The Capitol Group, Larry A. Murray

Absent were:

Eighth Board District Representative, Edwin L. Blewer, Jr.
At-Large Member, Pamela W. Carter

Agenda Item 2. Consent Calendar

The following items were included on the Consent Calendar and moved for approval without discussion and/or debate and unanimously approved:

- a. Approval of Minutes.
The minutes of the Board of Governors meeting held on August 27, 2005 in New Orleans.
- b. ABA Midyear Meeting.
Announcement that the 2006 ABA Midyear Meeting was moved from New Orleans due to Hurricane Katrina. The meeting will be held Wednesday, February 8 through Tuesday, February 13, in Chicago.

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. Bar Center Operations

- a. Staff Layoffs
Ms. Larsen informed the Board that staff size decreased from 32 to 20 employees, representing a reduction of 38%, a member to staff ratio of 985:1.
- b. Projected Staff Requirements for 2005-2006
Ms. Larsen reported that the Access to Justice department may need an additional staff member as the department lost two of its three employees and it has primary responsibility for administration of the call center. It is also anticipated that a Communications Director will be hired in early 2006.
- c. Physical Damage to the Bar Center and Status of Repairs
The Bar Center sustained a few broken windows on the fourth floor and some roof damage. The windows have been repaired and the roof patched and a claim has been filed for the roof damage.
- d. Business Interruption Claim
A business interruption claim through the insurance on the Louisiana Bar Center is being explored though we are uncertain as to the extent of the coverage. Jimmy Nieset has agreed to handle this and other claims on behalf of the LSBA.
- e. FEMA Claim.
Ms. Larsen informed the Board that as a non-profit organization, a claim has been filed with FEMA.

Agenda Item 5. Mandatory Continuing Legal Education

- a. Suspension of 2005 Requirement
President Neuner informed the Board that the Supreme Court approved an order suspending 2005 CLE requirements. In a press release issued on October 26,

the Court stated that existing rules which allow attorneys to carry forward up to eight hours of CLE credit earned in excess of the minimum have not changed.

b. Administration

President Neuner reported that the Supreme Court implemented “temporary, interim” measures regarding MCLE administration, hiring two former LSBA staff members who were laid off on October 3 to administer MCLE. The administrative staff is occupying space in the Louisiana Attorney Disciplinary Board’s Metairie offices. These measures will remain in place until the Court reviews and acts upon the MCLE performance audit, which was originally scheduled to be held in September.

President Neuner further reported that the Supreme Court reconstituted the MCLE Committee so that it now includes five full voting representatives from the LSBA, rather than the original five non-voting ex-officio members. Appointed to serve on the committee are James R. Nieset, Dona K. Renegar, S. Guy deLaup, E. Phelps Gay and Val P. Exnicios. Further, since the LSBA no longer has a statutory/regulatory role, the Supreme Court has constituted a commission to look at the future role of the LSBA.

c. Audit

President Neuner stated that the Court is moving forward with the scheduled MCLE performance audit to be conducted by the National Center for State Courts, with members of the Organization of Regulatory Administrators for Continuing Legal Education also involved in the process.

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

President Neuner informed the Board that he would have a nominee for consideration by the Court prior to the end of the current member’s term.

Agenda Item 7. Elections

The Board unanimously approved modifying the election schedule and procedures due to Hurricanes Katrina and Rita. Self-qualifying and voting will be conducted online with announcements of the new procedures placed in the LBT electronic newsletter and *Bar Briefs* or the *Journal*. All local and specialty bar associations will be notified of the change with a request that they forward the information to their membership and make announcements at their meetings to ensure that all LSBA members, especially those who do not utilize electronic communications, are aware of the modified schedule and procedures.

Agenda Item 8. Public Adjusting

President Neuner reported that he has requested an opinion from the Attorney General that public adjusting involves the unauthorized practice of law when the adjuster interprets contracts and

negotiates on behalf of an insured. He further requested the Attorney General prosecute, either civilly or criminally, any public adjuster who violates Louisiana's unauthorized practice of law statute. President Neuner expressed the desire to utilize an opinion from the Attorney General rather than seek legislative intervention.

Also, at the suggestion of Messrs. Durio and Maragos, the Board agreed to explore ways to promote the 1936 opinion which makes public adjusting illegal in Louisiana.

Agenda Item 9. Legal Assistance Call Center

a. Administration

Mr. Mollere expressed appreciation to the LSU Law School and, in particular, Board member John M. Church, for providing space and equipment for the Call Center. Mr. Mollere reported that LSU law students are manning the telephones and the LSBA has hired two displaced attorneys to speak with individuals who have hurricane related legal issues. Additionally, the Loyola Law Clinic has sent one attorney and two students to assist with the center.

Mr. Mollere reported that volunteers willing to accept cases from the Call Center are needed. Mr. Boren then reported on the plight of prisoners since the hurricane and the lack of appointments to the Indigent Defender Board. Mr. Neuner stated that he would contact the chair of the Right to Counsel Committee with a request to review the issues involved in the criminal justice system with a report and recommendations for the January Board meeting. He further stated that he would send a letter to the Governor and Court requesting the appointment of the Indigent Defender Board. Mr. Shows moved that President Neuner request the Supreme Court write a letter to the LSBA membership asking that they fulfill their pro bono obligations for criminal as well as civil cases. The motion was seconded and unanimously approved.

b. Funding

Ms. Schnabel reported that the Louisiana Bar Foundation approved a grant for the Call Center in the amount of \$70,000 and an application for a grant in the amount of \$280,000 has been made to the JEHT Foundation.

Agenda Item 10. LSBA Insurance Committees

a. Legal Malpractice Insurance Committee.

The Board unanimously approved a request from the Committee authorizing the committee to act on behalf of the Association with regard to the legal malpractice insurance program, with action to be reported to and ratified by the Board at its January 2006 meeting.

Also concerning this Committee the Board requested that Board member Joe Mengis review the trust document and report back to the Board on its contents. There was

discussion as to whether funds in the trust could be used to provide premium relief to insureds during the hurricane recovery period.

b. Group Insurance Committee.

The Board unanimously approved a request from the Group Insurance Committee authorizing the committee to act on behalf of the Association with regard to the group medical insurance program, with action to be reported to and ratified by the Board at its January 2006 meeting. The committee has indicated the plan has remained stable and that it expects a reasonable renewal from New York Life.

Agenda Item 11. Budget Committee

a. Hurricane Fiscal Impact.

Ms. Boyle presented a report on actual and future expenses incurred by the Association relative to Hurricanes Katrina and Rita and estimated loss of income.

b. Amendments to FY 2005/2006 Budget.

The Board unanimously approved the following FY 2005/2006 budget amendments recommended by the Budget Committee:

- ◆ decrease Penalties income from \$20,000 to \$10,000;
- ◆ decrease Seminars income from \$766,000 to \$425,000;
- ◆ decrease Sponsorships income from \$48,450 to \$32,000;
- ◆ decrease Bar Journal income from \$185,000 to \$160,000;
- ◆ decrease Bar Briefs income from \$38,000 to \$31,500;
- ◆ decrease Section Administrative Assessments income from \$35,000 to \$23,000;
- ◆ increase Gilsbar Royalties income from \$278,000 to \$348,000;
- ◆ decrease Interest income from \$105,000 to \$97,000;
- ◆ decrease MCLE Fees income from \$295,000 to \$25,000;
- ◆ decrease Judicial Administrator income from \$42,000 to \$34,000;
- ◆ decrease Nominations & Elections expenses from \$40,000 to \$30,000;
- ◆ decrease Bar Briefs expenses from \$49,000 to \$33,000;
- ◆ decrease Bar Journal expenses from \$155,000 to \$80,000;
- ◆ increase Web Site expenses from \$10,000 to \$30,000;
- ◆ decrease CLE Program expenses from \$425,000 to \$250,000;
- ◆ decrease MCLE Program expenses from \$195,000 to \$60,000;
- ◆ decrease Committee Expenses from \$40,000 to \$30,000;
- ◆ decrease Access to Justice Personnel expenses from \$214,000 to \$190,000;
- ◆ decrease Discipline & Practice Assistance Personnel expenses from \$370,000 to \$346,200;
- ◆ decrease Ethics Advisory Personnel expenses from \$108,000 to \$94,000;
- ◆ decrease Staff Salaries expenses from \$850,000 to \$727,000;
- ◆ decrease Staff Parking expenses from \$25,500 to \$17,500;

- ◆ decrease Staff Retirement expenses from \$60,500 to \$59,000;
- ◆ decrease Staff Insurance expenses from \$75,000 to \$64,500;
- ◆ decrease Payroll Taxes from \$61,000 to \$51,500;
- ◆ decrease Unemployment Taxes from \$2,000 to \$1,550; and
- ◆ increase Hurricane Katrina expenses from –0- to \$100,000.

Agenda Item 12. Special Legislative Session

LSBA lobbyist Larry Murray presented a brief overview of the special session of the Louisiana Legislature convened to consider hurricane recovery measures. The Board reviewed proposed legislation relative to suspension of prescription and preemptive periods. Ms. Krebs recommended amendments to the proposed legislation. Mr. McKay moved that the Board adopt the position as amended by Ms. Krebs, said motion being seconded and unanimously approved. The Board further unanimously adopted a motion to support legislation relative to procedures for the continuation of the criminal justice system during a declared disaster or emergency, and to provide for venue and jurisdiction of criminal prosecutions, proceedings, and habeas corpus petitions, inasmuch as the concepts are essentially unchanged from its present form, and delegated the monitoring of the legislation to Mr. Boren. In addition, the Board agreed to support any funding efforts for indigent defenders.

Agenda Item 13. Subcommittees to Review Programming

President Neuner reminded the Board that details and assignments for the review of LSBA programs and committees for consideration of consolidation and/or sunseting had been presented at the August meeting of the Board with final recommendations to be considered at the January meeting of the Board. He requested that all subcommittees meet and review their designated programs to ensure recommendations are available at the January meeting.

Agenda Item 14. Public Information Committee

a. Status of Efforts to Increase LSBA Publicity

Mr. Maragos, who serves as chair of the Public Information Committee, reported that the LSBA had retained Gallinghouse to assist with its media relations efforts. The committee will monitor the firm's effectiveness and adjust utilization accordingly.

The Board asked staff to prepare letters to editors to be sent to areas where bar associations and/or foundations had made significant contributions to the LSBA/LBF Disaster Relief Fund.

b. Web Site Development.

Mr. Maragos also reported on updating the LSBA web site to make it more inviting and informative to both members and the public. He indicated this would be an ongoing effort and solicited comments from the Board.

Agenda Item 15. Judiciary Resolution

Mr. Sholes introduced a resolution expressing appreciation to the state judiciary for its efforts to maintain the state court system following Hurricane Katrina and encouraging the state judiciary to return the court system to its pre-hurricane state. It was recommended that the resolution be modified to include the criminal justice system and Federal judges. Ms. Schnabel offered to work with Mr. Sholes on an amended version of the resolution. A motion was made and unanimously approved to amend the judiciary resolution to include the criminal justice system and Federal judges and forward the resolution to each state and Federal judge in the hurricane affected areas.

Agenda Item 16. ABA Retirement Funds

The Board considered a request from a member to encourage ABA Retirement Funds to elect to participate in the Hurricane Katrina Emergency Tax Relief Act, which allows Katrina victims to withdraw up to \$100,000 from their retirement plans without penalty. Income taxes would be paid on the amount withdrawn and could be spread out over an extended period. The Board unanimously approved a motion to allow President Neuner to send a letter to the ABA Retirement Funds encouraging participation in the Hurricane Katrina Emergency Tax Relief Act.

Agenda Item 17. Sale of Law Practice

The Board reviewed a request from a member that the LSBA renew discussions with the Supreme Court regarding adoption of ABA Model Rule on the sale of a law practice. The LSBA House of Delegates unanimously adopted the ABA Model Rule and had previously recommended such a change to the Supreme Court. The Board approved a motion to refer this issue to the Rules of Professional Conduct Committee with a request that they expedite their consideration on this issue.

Agenda Item 18. Report of the President

- a. Midyear Meeting
President Neuner announced plans for the Midyear Meeting to be held at the Cook Hotel and Conference Center on the LSU campus on January 20 and 21. The Board will meet at 2 p.m., Friday, January 20 for its regular meeting, and then meet briefly immediately following the House of Delegates meeting on January 21.
- b. 2006 Annual Meeting in Sandestin, Florida
President Neuner presented a brief report on plans for the 2006 Annual Meeting to be held June 6-10 at the Sandestin Golf and Beach Resort, Sandestin, Florida.
- c. Supreme Court Commission on the Future of the LSBA
As previously reported, as part of its decision to remove MCLE from LSBA administration, the Supreme Court has agreed to constitute a commission to review the status and future of the LSBA. President Neuner stated that he would keep the Board apprised of developments.

- d. Disaster Relief Task Force
 - 1. Legal Community Assistance – President Neuner reported on the distribution of funds received from donations to the Disaster Relief Fund. A second round of grants is scheduled to be distributed later in the month.
 - 2. Public Assistance - President Neuner reported on the ongoing efforts of the LSBA Call Center and the need for recruitment of volunteers.
- e. Active Non-Practicing Attorney Status

President Neuner reported on consideration of a new membership category that would allow an attorney to pay LSBA dues and receive all benefits of membership, but not practice in Louisiana. This would be a venue for displaced attorneys to remain “active” in the association without having to pay the disciplinary assessment. Attorneys opting for this status would also be exempt from MCLE requirements. President Neuner stated that he would ask the Bar Governance Committee to investigate what other states have done in this area with a report to the Board at its January meeting.
- f. Developing a Disaster Recovery Plan

President Neuner asked Ms. Larsen to share with Mr. Nieset disaster response plans from other bar associations with an eye toward developing a plan for consideration by the LSBA at a future meeting of the Board of Governors.

Agenda Item 19. Report of the President-Elect

Ms. Schnabel reported on plans to conduct additional training programs for attorneys volunteering to assist in the disaster relief centers.

Agenda Item 20. Report of the Secretary

Mr. Shows had no report at this time.

Agenda Item 21. Report of the Treasurer

Ms. Boyle had no report at this time, as all issues had been addressed in the context of the Budget Committee report.

Agenda Item 22. Report of the Immediate Past President

Mr. McKay reported on efforts to inform members of the availability of the legal research member benefit, Fastcase. He stated that in addition to including information on Fastcase in the *LouisianaBarToday* electronic newsletter, materials should be distributed during the Midyear Meeting.

Agenda Item 23. Report of the Young Lawyers Section

YLS Chair Dona Renegar reported on the Section's involvement in the establishment of the call center and the recruitment of volunteer attorneys to return calls. She reported on plans for the High School Mock Trial Competition and the Professional Development Seminar to be held in conjunction with the LSBA Midyear Meeting.

Agenda Item 24. Report of the Executive Director

Ms. Larsen referred the Board to a printed report contained in the Board materials. She reported on a meeting of the St. Bernard Parish Bar Association she attended, indicating the attorneys in St. Bernard have no phones, electricity or internet access. Ms. Larsen stated that a business center is being established in the Bar Center to assist the St. Bernard attorneys in reestablishing their practices.

Agenda Item 25. Other Matters

The next meeting of the Board of Governors will be held on Friday, January 20, 2006, at the Cook Hotel and Conference Center at LSU in conjunction with the LSBA Midyear Meeting.

Agenda Item 26. Adjournment

There being no further business to discuss, the meeting was adjourned at 11:45 a.m.

Respectfully submitted:

E. Wade Shows
Secretary

Date