

UTAH STATE BAR COMMISSION MEETING

MINUTES

Friday, June 21, 2024

In Attendance: President Erik Christiansen, President-elect Cara Tangaro, and Commissioners Brett Chambers, Kim Cordova, Matt Hansen, Chrystal Mancuso-Smith, Mark Morris, John Rees, and Tyler Young.

Ex-Officio Members: Ezzy Khaosanga, Dean David Moore, Nick Stiles, and Katie Woods.

Not in Attendance: Tom Bayles, Rick Hoffman, Greg Hoole, Shawn Newell: Ex-Officio members Nate Alder, Anaya Gayle, Ashley Biehl, Dean Kronk-Warner, Katie Lawyer, Tony Graf, and Margaret Plane.

Also in Attendance: Executive Director Elizabeth A. Wright, Assistant Executive Director Aubrey Schade, Finance Director Nathan Severin, IT Director David Clark, Christine Hashimoto, David Duncan, and Eric Bunderson.

1. President's Welcome and Reports

1.1 Report on Budget Meeting with Court

Ms. Wright reported on the meeting with the Supreme Court regarding our budget. This was the first year that we were required to have the Supreme Court approve the Bar budget. OPC's budget was also reviewed including salaries that the new Disciplinary Chief Counsel and the OPC Oversight Committee requested be adjusted. Mr. Severin discussed how there is sufficient cash reserve to cover the additional OPC expenses. Will meet with the Court in the fall/early in the new year to discuss licensing fees, and then at the May Commission meeting approve the budget before meeting with the court.

1.2 Annual Meeting and Social

Mr. Christiansen discussed the Annual Meeting and Summer Social, which will be hosted at the Law & Justice Center on July 12. The Annual Meeting will start at 3 and the party will begin at 4.

1.3 50-Year Award Recipients and Past Bar Presidents Luncheon

Mr. Christiansen reminded the group of the luncheon following the meeting at noon.

1.4 Pomeroy Update

Mr. Christiansen informed the Commission that the Bar's motion to dismiss was granted in the case. The plaintiffs have appealed to the 10th Circuit, but there is no briefing schedule yet. Ms. Wright reported that the 10th Circuit requested a mediation meeting that was not fruitful considering the plaintiff's request is dissolution of the Bar.

1.5 Jackrabbit Bar

Ms. Woods provided an update on the Jackrabbit Bar meeting she attended as the Bar's representative in June., Utah will be hosting the conference next year in June. Considering

focus on water law.

1.6 Bar Updates

a. New OPC Chief: Ms. Wright reported that the Court appointed Christine Greenwood as the new OPC Chief. Ms. Wright praised Ms. Greenwood's qualifications for the job, including extensive experience and knowledge of Utah's attorney discipline process. She discussed that the office has a backlog and that each attorney has over 100 cases.

b. New Ethics and Discipline Committee Chair: The Court appointed Beth Kennedy chair the Committee, beginning July 1. Ms. Kennedy will replace Christine Greenwood. Ms. Kennedy is former Ethics Counsel at the Bar, so the that position has just been posted.

c. New Communications Director: Ms. Wright introduced Jennifer Weaver, the new director of communications.

d. Audit Status: No update – the court person working on our audit is on medical leave and we haven't heard from them since May. Will begin our annual financial audit with Tanner at the end of the fiscal year.

2. Action Items

2.1 Vote to transfer designated reserves to pay for Unmind and Euclid/Clearvantage database cloud migration.

Mr. Severin discussed designated reserves. Last year, the Bar designated funds for migration of the Bar's member management database from on-site servers to the cloud. Funds were also designated to pay for the Bar's well-being contracts with TAVA and Unmind. Mr. Severin reported that those expenses were incurred and paid and recommended that the Board undesignate the funds.

Mr. Rees made a motion to undesignated the funds. Mr. Chambers seconded, and the motion was unanimously approved.

2.2 Approve Annual Meeting Awards

Ms. Woods stated the need for more people on the awards committee in order to get more feedback and insight into the nominees. Mr. Hansen suggested getting leaders from all regional bars on the committee.

Lawyer of the Year: recommend Margaret Plane

Ms. Cardova made a motion to award Margaret Plane as lawyer of the year. Mr. Christiansen seconded, and the motion was unanimously approved.

Judge of the Year: had two nominees and the committee was split.

Ms. Cardova made a motion to award Judge Bazell as Judge of the Year. Mr. Chambers seconded, and the motion carries with a vote of 5 to 3.

Section of the Year: recommend Young Lawyers Division

Ms. Cardova made a motion to award YLD as Section of the Year. Ms. Marcuso-Smith seconded, and the motion was unanimously approved.

Committee of the Year: Character and Fitness Committee

Ms. Cardova made a motion to award the Character and Fitness Committee as Committee of the Year. Mr. Hansen seconded, and the motion was unanimously approved.

The Board then discussed generally if we have the right awards. The Commission discussed adding additional judges awards, as well as awards for committee chairs. The Commission discussed the need for new members on the awards committee and that the committee should review the awards and whether some should be discontinued and new ones added.

2.3 Appoint Commission Judicial Council Representative

Margaret Plane is the current representative and her 3-year term is coming to an end. Ms. Woods is the nominee to replace Ms. Plane on the Judicial Council.

Mr. Young made a motion to appoint Ms. Woods as Judicial Council Representative. Mr. Chambers seconded, and the motion was unanimously approved.

2.4 Modify Scope of Ethics Advisory Opinion Committee

Ms. Kennedy told the Commission that the committee had been getting lots of ethics questions about 3rd party payment processors (venmo, cashapp, etc.). The Bar Foundation had made a request to the Ethics Advisory Opinion Committee asking if it is ethical for lawyers to use payment processors which hold client funds when the IOLTA rules requires all client funds to be held in IOLTA accounts. The Committee declined to answer the Fund's question because their authority applies only to the Rules of Professional Conduct and not the IOLTA rule or any other rules implicating the Rules of Professional Conduct.

Ms. Kennedy suggested expanding the committee's scope to all ethical rules governing the Bar, not just rules of professional conduct. This would include unauthorized practice, paralegal rules, etc. Mr. Christiansen suggested excluding admission rules.

The Commission had several comments on the draft provided in the materials, and asked Ms. Kennedy to make revisions for review at a subsequent meeting. **Approve 2023-2024 Executive Committee**

As the president elect, Ms. Tangaro presented her executive committee for next year for the Commission's review. The Executive Committee will be Cara Tangaro, Kim Cordova, Erik Christiansen, Matthew Hansen, Tyler Young, and Olivia Shaugnessy.

Mr. Morris made a motion to approve the executive committee; Mr. Rees seconded, and the motion was unanimously approved.

2.5 Adopt a Resolution on Bank Signatures

Ms. Wright explained that every Bar payment over \$1000 must be signed by Ms. Wright and a member of the executive committee. Therefore, we need to change the names of the secondary signatures to reflect the members of the newly approved executive committee.

Mr. Rees made a motion to update the bank signatures; Mr. Chambers seconded, and the motion was unanimously approved.

2.6 Authorize to File Complaint in UPL Action

Mr. Harward presented to the Commission regarding Curtis Olsen, against whom the Unauthorized Practice of Law Committee has received numerous complaints. Mr. Harward described the nature of Mr. Olsen's business, and his frequent return to the same business model after being admonished by the Committee.

Mr. Christiansen made a motion authorizing the UPL Committee to file a complaint; Mr. Rees seconded, and the motion was unanimously approved.

2.7 Legislation Regarding Unauthorized Practice of Law

Mr. Harward discussed difficulties facing the UPL Committee given their limited enforcement mechanism. Some possible suggestions would be adding penalties on the civil side, getting the Bar's attorney's fees covered if the Bar prevails, sanctions, disgorgement of profits, returning the money to victims. The UPL Committee is deferential to the Commission and the Courts as to what would be the best path forward, but requests permission to take next steps.

Mr. Christiansen made a motion authorizing the UPL Committee to explore changes to expand their enforcement ability; Mr. Chambers seconded, and the motion was unanimously approved.

3. Information Items

3.1 Update from the J. Reuben Clark School of Law

Dean David Moore discussed updates and current events at BYU law, which celebrated its 50-year anniversary last year. He discussed LSAT and GPA's of incoming class and bar passage rates, as well as placement of graduates.

3.2 Update regarding the Legislative Justice Court Reform Task Force

Mr. Eric Bunderson, West Valley City Attorney and the Bar's representative on the Task Force, provided an update on the Justice Court Reform Task Force. Mr. Christiansen asked about reporting function between Court and Legislature. Mr. Bunderson stated that the Task Force wants to do a pilot program next year, and that will be a few years before the whole thing is in place.

4. Commission Thank-Yous and Recognition

Mr. Christiansen thanked the Commission and Ms. Wright as his term as president draws to an end.

Adjournment.

The Commission adjourned at 11:58 am.

Consent Agenda.

The Commission approved by consent the following items:

- Minutes of the March 14, 2024 Commission Meeting
- 2024-2025 Committee Chairs