



BAR COMMUNITY

BOARD OF GOVERNORS

SEPTEMBER MEETING REVIEW

The State Bar of Arizona Board of Governors held a regular meeting on September 28, 2012, in Phoenix. To see the complete minutes go to www.azbar.org/aboutus/leadership/boardofgovernors/minutes.

- ▶ The President called the meeting to order at 8:30 a.m.
- ▶ **President's Report**—President Amelia Craig Cramer noted that the Board had an invitation in their materials to attend the 60th anniversary celebration of Community Legal Services at the Sandra Day O'Connor U.S. Courthouse on October 25. President Cramer reviewed the new agenda format that has action/vote items first with discussion regarding any policy issues after presentations.
- ▶ **CEO/Executive Director Report**—John Phelps provided a lengthy quarterly report that covered the first half of the year. Each specific goal refers to a goal listed in his 2012 performance plan as approved by the board.
- ▶ Mr. Phelps introduced the **Employee of the Quarter**, Alberto Rodriguez, stating that he is a creative member of the Communications team and is key to the outreach into the Hispanic community, working closely with the local media. The board congratulated Mr. Rodriguez for his work.
- ▶ Richard Coffinger thanked the board and staff for all the condolences his family received due to the tragic loss of his son-in-law in an automobile accident.
- ▶ **Consent Agenda**—President Cramer asked if anything was to be deleted from the Consent Agenda. Hearing nothing, the board voted unanimously to accept the agenda.
- ▶ **Appointments Committee**—Chair Bryan Chambers reported:
 - ▶ Arizona Supreme Court Committee on Character and Fitness—2 openings—The board voted to recommend to

- the Arizona Supreme Court, for its consideration and ultimate selection, the following six candidates: Zachary Cain; Elizabeth Feldman; Rodney Galarza; John O'Neal; Raymond Woo and Anica Parker.
- ▶ Arizona Supreme Court Committee on Examinations—1 opening—The board voted unanimously to recommend to the Arizona Supreme Court, for its consideration and ultimate selection, the following three candidates: Howard Sukenic; Rodney Galarza and Michael Bailey.
- ▶ Pinal County Commission on Trial Court Appointments—5 openings, one in each of the newly established supervisorial districts—The deadline has been extended. Mr. Chambers further reported that more qualified applicants are being sought. Eligibility lies on the applicants' residence, not place of business. Everyone is encouraged to seek qualified candidates to apply.
- ▶ **Technology Committee Report**—Chair Sam Saks and Technology Support Director Rob Hosch reported that the committee reviewed RFPs for an online research tool that would be offered to the members. After reviewing three vendors, the committee recommended Fastcase, the current vendor, as the member benefit for the upcoming year, at a cost of \$80,000. The board voted unanimously to support the recommendation of the committee to approve a contract with Fastcase for 2013 as a member benefit for the upcoming year.
- ▶ **SBA Policy Guidelines**—Conflict of Interest Statement—President Cramer asked that all board members review the guidelines and fill out the Conflict of Interest Statement and turn them in.
- ▶ **Arizona Foundation for Legal**

- Services & Education**—CEO Kevin Ruegg, Ph.D., reviewed the midyear progress report for Access to Justice funding. Two new exciting projects are the Family Lawyers Assistance Project, located at the Northeast Superior Court in Maricopa County, and DNA-People's Legal Services' Medical Legal Assistance Partnership in Northern Arizona. There are other medical legal partnerships in Arizona, but this is the first in Northern Arizona.
- ▶ Ms. Ruegg reported that the fundraising consultant is in the process of interviewing to assess fundraising opportunities and difficulties. Ms. Ruegg invited board members to be interviewed and involved in the process.
- ▶ The Foundation will fill five seats on its board in December; none are State Bar-appointed positions. The State Bar's Appointments Committee works to fill six out of the 25 Foundation Board seats.
- ▶ **Communications Advisory Committee**—CCO Rick DeBruhl reviewed a PowerPoint presentation on the Communications Department and its responsibilities within the organization. The Communications Advisory Committee is working toward improving the image of attorneys and coordinating the Bar-wide communications. One thing that they coordinate is Law Day each year. Last year they arranged five legal clinics, and this year they want to build on the structure created to enhance access to justice.
- ▶ **Fair and Impartial Courts Defense Plan**—CCO Rick DeBruhl summarized the draft plan as follows:
 - ▶ Analyze—the threat first. Having a Rapid Response team is crucial.
 - ▶ Inform—spread the word using the five directions of media (Internet, TV, radio, newspapers and magazines).
 - ▶ Advocate—is more complicat-

- ed.
- ▶ Mr. DeBruhl stated how important it is to understand the underlying issues. He suggested creating "The Arizona Plan" and having a repository of information to be distributed or available. The board discussed at length the idea of a website and its contents. The plan will return next month for a vote.
- ▶ **ARIZONA ATTORNEY Editorial Board**—Editor Tim Eigo reviewed the key to publication success, which begins with the reader and content that is high-quality, credible, balanced and trusted.
 - ▶ 95 percent of Arizona lawyers read the magazine.
 - ▶ 29 percent of readers save each issue for future reference.
 - ▶ 21 percent of readers pass articles on to others.
 - ▶ 47 percent discuss with others articles and items they've read.
 - ▶ Our members spend 37 minutes reading every issue.
 Articles come to the Editorial Board in several ways: Authors contact the Editor or Editorial Board members with queries; authors send in outlines and story ideas; authors send in complete articles for review. The Editor gathers articles/queries as they arrive (he communicates the process and often asks authors some initial questions; articles are transmitted to board members for their review and input).
- Hon. Randall Howe, Editorial Board Chair, reviewed the process undertaken to decide what goes in the magazine. The Editorial Board meets monthly to discuss articles and other story ideas. They have robust debates and work until consensus is achieved. They understand busy readers, competing publications and what it takes to be nationally recognized. ARIZONA ATTORNEY will continue to publish quality credible content and to deliver it in whatever medium readers prefer, including increasing use of

Smartphones, tablets and e-readers.

- ▶ The Board discussed the current system of determining content of the magazine and whether the Board should be involved in the content. The board voted to delegate to staff using the current system to determine content of the website and the Editorial Board to determine the content of ARIZONA ATTORNEY magazine.
- ▶ **ABA House of Delegates**—Mike Mason reported on this year's ABA annual meeting in Chicago:
 - ▶ Resolution 10A—Reaffirms policy adopted July 2000 that the sharing of legal fees with non-lawyers and the ownership or control of the practice of law by non-lawyers are inconsistent with the core values of the legal profession and the law governing lawyers that prohibits lawyers from sharing legal fees with non-lawyers and from directly or indirectly transferring to non-lawyers ownership or control over entities practicing law should not be revised. The House of Delegates voted to postpone the resolution indefinitely.
 - ▶ Law schools and information sharing with the public—A Resolution was adopted that would require more transparency re disclosure of school rankings, students placed immediately following graduation, and attrition rates.
 - ▶ Patent Resolutions were postponed due to a federal appeals case pending.
- ▶ **Director, Special Services and Ethics**—Deputy General Counsel Pat Sallen reported that all of the changes to the Model Ethics Rules were approved. Comments to the Rules are consistent with the way the Bar's Ethics Committee interprets the Rules. The biggest change is to Rule 1.6 wherein it will be okay to disclose information about a client when a lawyer changes law firms in order to disclose conflict issues. The Ethics Committee will continue to monitor if changes need to be made in Arizona.
- ▶ The ABA also changed the Model Rule on Admission on Motion and adopted a new model rule related to admissions. The Model Rule on Admission on Motion was revised to allow an attorney to apply for AOM if he or she has actively practiced three of the previous five years. Arizona's Rule states five of seven previous years of practice. The new rule is the Model Rule on Practice Pending Admission, under which an attorney can practice in a jurisdiction for up to one-year while actively seeking admission. The Arizona Supreme Court's Attorney Regulation Advisory Committee will be reviewing this new Model Rule.
- ▶ **ABA House of Delegates**, February meeting, Ethics 20/20 Commission—Lawyers and clients may decide which jurisdictional rules should apply in their case. The Ethics Committee will bring forward recommendations to the Board for advising the Delegates

on how to vote.

- ▶ **Workers' Compensation Section's Request**—John Furlong, General Counsel, reviewed his initial opinion regarding the Workers' Compensation Section's request for SBA lobbying in support of the independence of the Industrial Commission's Director and Administrative Law Judges. Additional research is recommended. The matter will return to the board's October agenda for a possible vote and Lobbyist Janna Day and Worker's Compensation Section's representatives will be invited.
- ▶ **Board of Legal Specialization Proposal**—Chair Thomas J. Griggs and Sub-Committee Chair David E. Shein presented the proposed revision to Specialists' CLE requirements. The Sub-Committee findings:
 - ▶ Advanced legal education for specialists is available through self-study modes such as DVDs, CDs, non-interactive video and online programming.
 - ▶ The national and local CLE providers offer advanced programs in self-study formats which are consistent with the high CLE standards applicable to specialists.
 - ▶ Specialists would, as always, be responsible for affirming that the self-study education meets the requisite standards for specialists.
 - ▶ The self-study component would exclude claims for non-compensated arbitration which is permitted for non-specialists.
 - ▶ Specialists would be allowed to obtain up to five (5) hours of CLE in their area of specialization via self-study formats.This agenda item will return in October for vote by the Board of Governors.
- ▶ **Meeting Schedule**—The board's full meeting schedule is on the Bar's website: <http://www.azbar.org/aboutus/leadership/boardofgovernors/meetingschedule>

REINSTATED ATTORNEYS

FRED L. HOWE

Bar No. 013270; File Nos. 11-1562, 11-1592, 11-1984, 11-2359

PDJ No. 2012-9091

By the presiding disciplinary judge's Sept. 17, 2012, order, Fred L. Howe, Surprise, Ariz., was reinstated as an active State Bar member, and placed on probation for two years, effective the date of the order.

JAY K. POWELL

Bar No. 021576; File Nos. 11-0622, 11-1483, 11-2042, 11-2589, 11-3253

PDJ No. 2012-9087

By the presiding disciplinary judge's Sept. 5, 2012, order, Jay K. Powell, Tucson, was reinstated as an active State Bar member, and placed on probation for two years, effective the date of the order.

SANCTIONED ATTORNEYS

HARLAN W. GREEN

Bar No. 006688; File Nos. 11-0112, 11-0319, 11-1631, 11-1650, 11-3466

PDJ No. 2011-9060

By the presiding disciplinary judge's Sept. 18, 2012, amended judgment and order, Harlan W. Green, Payson, Ariz., was disbarred effective the date of the order. He also was ordered to pay restitution totaling \$10,237.40 to three former clients.

Mr. Green failed to file an answer to the formal complaint. He also failed to appear for his aggravation/mitigation hearing.

In multiple matters, Mr. Green failed to provide competent representation, failed to abide by his client's decision concerning the objectives of reforestation, failed to exercise reasonable diligence on his clients' behalf, failed to reasonably communicate with his clients, charged unreasonable fees, failed to communicate in writing to his clients the scope of the representation and basis for fees and expenses for which his clients were responsible, engaged in a concurrent conflict of interest, failed to refund to his clients all or any portion of their paid but unearned fees, failed to render an accounting of fees, failed to comply with duties upon termination of representation, failed to expedite litigation consistent with his clients' interests, knowingly violated court orders and rules, failed to respond to the State Bar's investigations or provide requested information, engaged in conduct involving dishonesty, fraud, deceit or misrepresentation, engaged in conduct prejudicial to the administration of justice, and violated a condition of probation or diversion.

Aggravating factors: prior disciplinary offenses, dishonest or selfish motive, pattern of misconduct, multiple offenses, bad-faith obstruction of the disciplinary process, refusal to acknowledge wrongful nature of conduct,

vulnerability of victims, substantial experience in the practice of law, and indifference to making restitution.

Mitigating factors: none.

Mr. Green violated Rule 42, ARIZ.R.S.CT., specifically ERs 1.1, 1.2, 1.3, 1.4, 1.5(a), 1.5(b), 1.6, 1.7, 1.15, 1.16, 3.2, 3.4(c), 8.1, 8.4(c) and 8.4(d), and Rules 54(c), (d) and (e), ARIZ.R.S.CT. Mr. Green also was ordered to pay the State Bar's costs and expenses totaling \$2,026.95.

ROSVAL PATTERSON

Bar No. 018872; File No. 10-1111

PDJ No. 2011-9084

After a two-day trial, a disciplinary panel suspended Rosval Patterson, Phoenix, for one year, effective Aug. 27, 2012.

Mr. Patterson's misconduct included sending out inaccurate correspondence and documents without the client's knowledge or consent; settling a client's lawsuit without the client's knowledge or consent; knowingly failing to make reasonable efforts to expedite litigation; inadequately communicating with his client throughout the representation; charging and collecting an unreasonable fee including changing the terms of the written hourly representation agreement to a contingency agreement and collecting the unearned and unsubstantiated amount of \$85,463.42 as "interest on unpaid legal fees."

Aggravating factors: prior disciplinary offenses; dishonest or selfish motive; pattern of misconduct; refusal to acknowledge wrongful nature of conduct; substantial experience in the practice of law; and indifference to making restitution.

Mitigating factor: full and free disclosure to disciplinary tribunal.

Mr. Patterson violated Rule 42, ARIZ.R.S.CT., specifically ERs 1.2(a), 1.2(d), 1.3, 1.4(a), 1.5(a), 1.5(b), 1.5(c), 1.16, 3.2 and 8.4(c). He was also ordered to pay restitution of \$85,463.42 and travel expenses of \$230.40 along with costs and expenses of \$4,031.65.

NANCY D. PETERSEN

Bar No. 017025; File Nos. 11-3421, 12-0815, 12-0833

PDJ No. 2012-9072

Following an agreement for discipline by consent, and by the presiding disciplinary judge's Aug. 24, 2012, judgment and order, Nancy D. Petersen, Phoenix, was suspended for one year effective immediately.

In multiple matters, Ms. Petersen failed to notify clients and others of her prior suspension; engaged in the unauthorized practice of law; knowingly violated court orders prohibiting her from practicing law while suspended; falsely told a court that she was on active status

and no longer suspended when, in fact, she was suspended; falsely represented her State Bar status to others; and engaged in conduct prejudicial to the administration of justice by forcing courts and parties to address her violations.

Aggravating factors: prior disciplinary offenses, pattern of misconduct, multiple offenses, and substantial experience in the practice of law.

Mitigating factors: absence of dishonest motive; personal or emotional problems; full and free disclosure to a disciplinary board or cooperative attitude toward proceedings; and remorse.

Ms. Petersen violated Rule 42, ARIZ.R.S.CT., specifically ERs 1.4, 3.3, 3.4(c), 4.1, 5.5, 8.1(b), and 8.4(a), (c) and (d); Rule 31(b) and (c), ARIZ.R.S.CT.; Rule 54(a), (c), and (d), ARIZ.R.S.CT.; and Rule 72, ARIZ.R.S.CT. Ms. Petersen also must pay the State Bar's costs and expenses totaling \$1,206.65.

CAUTION! Nearly 16,000 attorneys are eligible to practice law in Arizona. Many attorneys share the same names. All discipline reports should be read carefully for names, addresses and Bar numbers.

PEOPLE, PLACES, HONORS & AWARDS

OPEL



Ryan B. Opel joined Gallagher & Kennedy PA as a shareholder in the firm's Business Law Department. He is a transactional lawyer concentrating in mergers and acquisitions, corporate finance, private equity, commercial contracts, supply chain, corporate governance, franchising, securities regulation, nonprofit law and general corporate law.

He joins the firm from North Carolina, where he was a partner with a large national law firm.

RONAN



STUHAN



Patricia E. Ronan and Trish Stuhan joined Curtis, Goodwin, Sullivan, Udall & Schwab. Ronan's practice will focus on civil litigation and employment law; Stuhan will focus on municipal law and civil litigation.

Osborn Maledon PA, Phoenix, announced four new partners.

DESAI



O'GRADY



OTTOSON



WINDTBERG



Sharad Desai represents plaintiffs and defendants in all aspects of complex civil litigation in state and federal courts, including appeals. Mary O'Grady's practice focuses on appeals, civil litigation and administrative law; she has longtime experience with public law issues. Erick Ottoson is an intellectual property attorney, primarily working on patent litigation. Kristin Windtberg focuses her practice on employment litigation, employment counseling

MIRANDA



Squire Sanders announced their new Phoenix Partner in the Public Finance practice, Pedro J. Miranda.

PEOPLE

BROWN



CHARLTON



Gallagher & Kennedy PA announced that two attorneys were elected as members.

Timothy D. Brown is a shareholder and CPA, practicing in all areas of federal tax law, with an emphasis on real estate and business joint ventures, mergers, acquisitions, sales and restructures, corporate tax planning and consulting, civil tax controversy, and tax-exempt organizations.

Paul K. Charlton is a shareholder whose practice focuses on the representation of public officials, white-collar criminal defense, corporate compliance and Native American law issues.

NEWS FOR MEMBERS

CERTIFIED SPECIALISTS

The following attorneys have submitted applications for certification or recertification in Specialization. If you would like to submit comments on any applicant, please submit to the Board of Legal Specialization, State Bar of Arizona, 4201 N. 24th Street, Suite 100, Phoenix, AZ 85016. Comments also may be emailed to BLS@staff.azbar.org. Anonymous comments will not be considered.

Bankruptcy Law

Initial Certification

Jody A. Corrales
Eric Ollason

Recertification

Franklin D. Troy Dodge
Michael McGrath
Adam B. Nach
Randy Nussbaum

Criminal Law

Initial Certification

Trent R. Buckallew
Daisy Flores
Craig S. Orent

Recertification

Michael B. Bernays
Richard C. Bock
Tamara D. Brooks-Primera
Joseph P. DiRoberto
Michael J. Donovan
Donna Lee Elm
Richard D. Gierloff
Nancy L. Hinchcliffe
Lawrence I. Kazan
Michael D. Kimerer
Robert J. McWhirter
Craig W. Penrod
Tonya J. Peterson
Lee B. Phillips
Terry Pillinger
Jeffrey D. Ross
Jon M. Sands
Robert L. Storrs
Brick P. Storts III
John Pressley Todd
Deborah L. Williams
Ronald D. Wood
Michael S. Yucevicius

Estate and Trust Law

Initial Certification

Quinn DeAngelis
Timothy W. Holt
Timothy M. Struse
Juan Pablo G. Zaragoza

Recertification

Roger D. Curley

Family Law

Initial Certification

Jason B. Castle

Glenn D. Halterman
Joseph M. Huey
Jennifer A. Manzi
Kristen A. Martin
Angela Y. Peacock
Fred Ruotolo
Lisa J. Stone
Edina A. T. Strum

Recertification

William D. Bishop
Mervyn T. Braude
Angela K. Hallier
Annalisa Moore Masunas
Jeffrey G. Pollitt
Leonce A. Richard III

**Personal Injury
and Wrongful
Death Law**

Initial Certification

Ronald W. Collett
Louis Hollingsworth
Charles D. Onofry
Timothy G. Tonkin

Recertification

Scott A. Alles
Wayne C. Arnett
Daryl A. Audilett
H. Christian Bode
C. Alan Bowman
Charles M. Brewer
Robert J. Bruno
Steven D. Copple
Donald R. Crowell
Paul Michael Duda
Herbert L. Ely
Paul A. Englander

Charles E. Fleury
Paul D. Friedman
Elliot A. Glicksman
Robert L. Greer
Stephen I. Leshner
Barry E. Lewin
Daniel P. Massey
Paul J. McGoldrick
Fred J. Pain Jr.
Anthony J. Palumbo
Leslie L. Rakestraw
Joseph P. Rocco
Randy L. Sassaman
H. Micheal Wright

Real Estate Law

Initial Certification

Christopher J. Charles

Recertification

Kevin T. Ahern
Joseph M. Atkinson
David R. Baker
J. Scott Burns
Tony S. Cullum
Tanis A. Duncan
Janet B. Hutchison
Irving Hymson
Paul B. Kertman
Marc R. Lieberman
K. Michelle Lind
Steven L. Lisker
James R. Nearhood
W. Ralph Pew
Ari Ramras
Margaret L. Steiner
Michael N. Widener

Tax Law

Initial Certification

David R. Jojola
Derek W. Kaczmarek

Recertification

Loren B. Christenfeld
Douglas K. Cook
John F. Daniels III
Patrick Derdenger
Michael G. Galloway
Yale F. Goldberg
Gerald G. Hawley
K. Layne Morrill
Stephen C. Newmark
Scott K. Oberg
Daniel H. O'Connell
Austin D. Potenza II
Cynthia L. Shupe
Jason M. Silver
Jay L. Tomback
Douglas R. Vande Krol

**Workers'
Compensation Law**

Initial Certification

Chiko F. Oyolu

Recertification

Joseph M. Bettini
Gregory L. Folger
Lawrence H. Lieberman
R. Todd Lundmark
Dee-Dee Samet
Alan M. Schiffman
Roger A. Schwartz
James L. Stevenson
Stephen L. Weiss
Robert E. Wisniewski

