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from the board

## STATE BAR BOARD OF GOVERNORS

### October Meeting Review

Below are highlights from the October 25, 2002, State Bar Board of Governors meeting. Meetings are held monthly at the Arizona Bar Center in Phoenix.

After two years of work, the State Bar Board of Governors has approved a final set of recommended changes to the **Rules of Professional Conduct**. See the recap on this page, and read the overview and complete proposal online at [www.azbar.org](http://www.azbar.org).

- ▶ The Board members congratulated President Ernest Calderón on receiving the Latino Lawyer of the Year Award.
- ▶ The State Bar's employees of the month were introduced and congratulated: August—Maret Vessella, Staff Bar Counsel; September—Loren Braud, Deputy Chief Bar Counsel
- ▶ The ARIZONA ATTORNEY staff was congratulated for receiving the Luminary Award from the National Association of Bar Executives.
- ▶ Executive Director Cynthia Zwick reported that the IOLTA oral argument is scheduled for Dec. 9 before the U.S. Supreme Court.
- ▶ Ms. Zwick reported that the bench and the bar will honor Justice Stanley Feldman at a reception on December 10 at the Heard Museum. Justice Feldman is stepping down from the Supreme Court after 20 years of service.
- ▶ The Board voted to request from the Supreme Court a 30-day extension for comment to Rule 17.2 regarding immigration issues in order to allow the Immigration Section and Criminal Practice and Procedure Committee to work together to reach a consensus on the proposal. In the event the extension is not granted, members of the section and committee are encouraged to file their comments as individuals and not on behalf of the State Bar.
- ▶ The Board voted to approve the amendments to the Bylaws presented by the Environmental & Natural Resources Law Section.
- ▶ Jim Smith, Chair of the Finance Committee, gave an overview of the September financial statements.
- ▶ Dan McAuliffe, liaison to the MCLE Committee, summarized a Petition for

Adoption of New Rule 45(l), Rules of the Supreme Court. The proposal provides a mechanism for the State Bar to pre-certify CLE programs.

- ▶ Matt Silverman, Director of Communications, recapped the “All for You” campaign, a plan designed to better

communicate to the membership the services provided by the State Bar.

- ▶ The Ethical Rules Review Group gave its report and the Board voted (see box).
- ▶ The next meeting of the Board of Governors is scheduled for November 22, 2002.

## Ethical Rules Recap

- ▶ At the Oct. 25 meeting, Hon. Michael Owen Miller gave an overview of the Ethical Rules Review Group's (ERRG) work and its proposal.
- ▶ The Board adopted the ERRG Proposal with the exceptions of those rules noted below and ER 8.4.
- ▶ Judge Miller reviewed the following seven rules that are controversial (followed by the Board vote):
  1. Malpractice Coverage Notice—ER 1.4(a)(6): The Board voted not to adopt the proposed rule.
  2. Written Fee Agreement—ER 1.5(b): The Board voted to adopt the rule: All fee agreements must be in writing, and clients must sign contingent fee agreements.
  3. Prohibition Against Attorney-Client Sexual Relations—ER 1.8(j): The Board voted to delete from the ERRG proposal the proposed rule (later modified, see below).
  4. Communications of Fields of Practice and Specialization—ER 7.4: The Board voted to keep current Rule 7.4(c) as it exists.
- ▶ The Board voted to adopt Rule 8.4, comment 3 (Misconduct) with inclusion of the words “gender identity.”
- ▶ At the Nov. 22 meeting, following a recap by Hon. Michael Owen Miller, the Board voted as indicated:
  1. Advertising—Rule 7.2(e.1): The Board voted not to adopt the proposed rule.
  2. Communications With Person Represented by Counsel—ER 4.2: The Board voted not to adopt the proposed rule.
  3. Special Responsibilities of a Prosecutor—ER 3.8(e) and (f): The Board voted to adopt the rule.
  4. Prohibition of Sexual Relations Between Attorney and Client Except in the Case of a Pre-Existing Relationship—ER 1.8(j): At the October meeting, the Board voted to delete the proposed rule from the ERRG proposal; it was reconsidered at the November meeting, and the Board voted to adopt the rule.

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- Thursday, Jan. 9 .....A Funny Thing Happened on the Way to the Capitol (Crowne Plaza, Phoenix)
- Thursday, Jan. 16 .....Accounting Concepts for Lawyers: Part I (Radisson Resort Scottsdale)
- Thursday, Jan. 16 .....Law Firm Web Sites (Radisson Resort Scottsdale)
- Friday, Jan. 17 .....For Better or For Worse (Radisson Resort Scottsdale)
- Friday, Jan. 17 .....Lawyer Discipline: An Introduction (The Manning House, Tucson)
- Friday, Jan. 17 .....Managing Your Trust Accounts (The Manning House, Tucson)
- Friday, Jan. 24 .....New Year's Resolutions: Maximize Your Productivity and Satisfaction (Radisson Resort Scottsdale)

Sometimes, seminar locations and times may change. Be sure to visit [cle.azbar.org](http://cle.azbar.org) for details and updated information.

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- ▶ Executive Director Cynthia Zwick reported that the American Bar Association is seeking nominations for the Edward J. Devitt Distinguished Service to Justice Award.
- ▶ Employees of the month were introduced: June—Jennifer Sonier (CLE Department) and October—Cathy McNeelege (Lawyer Regulation Department).
- ▶ Ted Schmidt, Mike Murphy and John Micheals, representatives from the Trial College Planning Committee, gave an overview of the history of the Trial College Program. Pros and cons of keeping the program active were discussed. This issue will be brought back to the board at the December meeting.
- ▶ Sally Simmons, Chair of the Task Force on Persons with Disabilities in the Legal Profession, gave an update on the recent work of the task force. It has developed a “road show” to be presented to the Cochise County Bar and other bar associations and interested groups. It also is teaming up with the Committee on Minorities and Women in the Law for presentation of a program tentatively titled “The Economics of Diversity” at the 2003 annual Bar convention.
- ▶ The Board approved a petition for adoption of new rule 45(*l*) CLE Programs and Providers to go to the Supreme Court to create a pre-certification process.
- ▶ The Ethical Rules Review Group gave its report and the Board voted (see box on p. 39).
- ▶ A preview of the 2003 budget was presented to the Board. The finalized budget will be presented for approval at the December meeting.
- ▶ The board approved an extension of time for comment for the rule changes that affect the death penalty and victims’ rights issues.

with a disciplinary matter, committed a criminal act that reflects adversely on his honesty, trustworthiness or fitness as a lawyer and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation.

There were four aggravating factors

found pursuant to the ABA *Standards*, Section 9.22: (b) dishonest or selfish motive, (f) false statements during the disciplinary process, (g) refusal to acknowledge wrongful nature of conduct and (k) illegal conduct, including the use of controlled substances. There were two mitigating factors found

pursuant to Section 9.32 of the ABA *Standards*: (a) absence of prior disciplinary record, and (k) imposition of other penalties or sanctions.

Mr. Vice's conduct violated Rule 42, ARIZ.R.S.C.T., particularly ER 8.1(a) and ER 8.4(b) and (c). ▲

## new people, new places

Twelve new associates have joined **Lewis and Roca**. They are: **Albert Acken** (environmental law), **Mike Ambri** (commercial litigation), **Kimberly Demarchi** (commercial litigation), **Michelle Dolezal** (constructional law), **Ian Douglas** (bankruptcy), **Kirk Grimshaw** (real estate), **Donna Parks** (bankruptcy), **Chris Pierson** (commercial litigation), **Candida Ruesga** (commercial litigation), **Erin Simpson** (commercial litigation in the firm's Tucson office), **Pamela Titzer** (tort litigation) and **Emily Wessels** (intellectual property law).

**Dawn Gabel** has joined **Steptoe & Johnson** as a partner and will focus her practice on state and local tax litigation in state and federal courts.

**Carol T. Contes** has joined **Valensi, Rose & Magaram PLC** in Los Angeles to head the firm's entertainment group.

Five new attorneys have joined **Bryan Cave LLP**. **Richard J. Ruffatto** has joined as Counsel and will practice in environmental law. **Kenneth A. Nelson** (intellectual property), and **Tracey F. George**, **Christine E. Broucek** and **Sandra K. Ortlund** (class and derivative actions) have joined as associates.

## honors & awards

Former Maricopa County Superior Court **Judge Armando de Leon** was one of two Arizonans inducted into the **Valle del Sol's Hall of Fame**. He was rewarded for his work as counsel for Hispanic civil rights organizations and four years of service on the Phoenix City Council.

**Jeffrey H. Wolf**, shareholder in the litigation department of Greenberg Traurig LLP, has been named to the editorial board of the *Franchise Law Journal* of the American Bar Association.

**Theodore C. Jarvi** has been elected to the Board of Directors of the **Court of Appeals for Veterans Claims Bar Association**.

**Richard D. Grand** of Tucson has received the Professional Achievement Award from the **University of Arizona**. The award is given to those who have attained prominence in their field. He is the 12th person to receive the award.

**Scott DeWald**, a partner with Lewis and Roca LLP, was appointed to the Board of Directors of the **Arizona Technology Council**, formerly AZSoft.net.

**Charles F. Hauff, Jr.**, a partner with Snell & Wilmer, has received the **2002 Roger Middlekauff Award**. The award recognizes outstanding leadership and continuing efforts on behalf of the American Chemical Society's Division of Chemistry and the Law.

**Lynda C. Shely**, Director of Lawyer Ethics with the State Bar of Arizona, was elected as a **Fellow of the American Bar Foundation**. The Fellows is an honorary organization of attorneys, judges and law professors whose professional, public and private careers have demonstrated outstanding dedication to the

welfare of their communities.

**Gregory Y. Harris**, Of Counsel with Lewis and Roca LLP, was elected to the Board of Directors for the **National Council of State Boards of Nursing**. He is the first public member elected to serve this organization since its inception.

## volunteer lawyers program

The Maricopa County Volunteer Lawyers Program honored the following as attorney of the month in 2002: **Donald R. Alvarez** (March), the entire firm of **Quarles & Brady Streich Lang** (April), **J. Michael Christopher** (May), **Thomas N. Payne** (June), **Roger K. Gilbert** (July), **Frank W. Busch III** (August) and **Robert F. Crawford** (October).

## recently deceased

John S. Regan, Prescott  
Nancy Anne Stewart, Scottsdale

## in memoriam

## Nancy Anne Stewart

**Nancy Anne Stewart**, 43, died of a heart attack on Oct. 25, 2002, in Sedona, Arizona.

Born Dec. 2, 1958, in Minneapolis, Stewart grew up in Rochester, Minnesota. She attended Drake University and graduated from the University of Wisconsin-Madison in 1981. She earned her J.D. degree from the Boston University School of Law in 1985.

Stewart's Massachusetts practice focused on personal injury, workers' compensation, medical malpractice and probate matters. She practiced before the Massachusetts probate, district and superior courts, Massachusetts Department of Industrial Accidents, U.S. District Court and Social Security Administration.

She was admitted to the Arizona Bar in 1990 and worked for six years litigating personal injury cases at Levenbaum & Cohen, Phoenix. In 1996, she established her own practice specializing in family law and personal injury law. She was an experienced litigator and champion of parental rights. Recently she argued a case of first impression on the issue before the Arizona Supreme Court.

She was a member of the State Bar of Arizona, the Maricopa County Bar Association and the Arizona Trial Lawyers Association.

Ms. Stewart is survived by her parents, Dr. John L. and Marilyn D. Stewart of Rochester, MN; a brother, David J. Stewart of Rochester; a sister, Janet Stewart Moffitt (Christopher); a niece, Hellen Stewart Moffitt; and a nephew, Hugh Middleton Stewart Moffitt, all of Alexandria, VA.

Memorial contributions can be made to The Mayo Foundation in support of orthopedic surgery research (200 First Street, S.W., Rochester, MN 55905).

A memorial service was held on Nov. 23 at Christ Church of the Ascension in Paradise Valley.