

## MINUTES

### *Public Session* **WASHINGTON STATE BAR ASSOCIATION BOARD OF GOVERNORS**

**OLYMPIA, WA  
January 12, 2006**

The Public Session of the Board of Governors of the Washington State Bar Association was called to order by President S. Brooke Taylor at 1:05 p.m., on Thursday, January 12, 2006 at the Phoenix Inn Suites, Olympia, Washington. The Public Session was adjourned at 4:55 p.m. Governors in attendance were:

Marcine Anderson  
Stanley Bastian  
Eron Berg  
Liza E. Burke  
Lonnie Davis  
Eric C. de los Santos  
Mark Johnson  
Douglas C. Lawrence  
Salvador A. Mungia  
Kristin Olson  
Kathleen O'Sullivan  
Michael Pontarolo  
Kristal K. Wiitala

Also in attendance were President-elect Ellen Conedera Dial, Executive Director and Meeting Secretary Jan Michels, and General Counsel Bob Welden.

#### **LIAISONS, GUESTS AND STAFF IN ATTENDANCE:**

Daniel S. Gottlieb	Access to Justice Board
Steve Toole	WSTLA
Bernie Friedman	Disciplinary Board
Ed Holm	WAPA
J. David Stahl	Litigation Section
Mary Barrett	Dispute Resolution Section
Caitlin Davis Carlson	Legal Foundation of Washington, Executive Director

Erika Lim	Legal Foundation of Washington, Trustee
Wayne Blair	Montgomery Purdue Blankinship & Austin
Sarah Zier	Education Director, Equal Justice Coalition
Dan Fazio	Washington Farm Bureau
Jerri Honeyford	President, Yakima Farm Bureau
Al Falk	Real Property, Probate & Trust Section
Randolph Gordon	Former Governor, 8 <sup>th</sup> District
Richard E. Potter	Administrative Law Section
Noah Davis	WYLD, President
Commissioner Brett Buckley	Thurston County District Court
Judge Ronald Culpepper	Pierce County District Court
Larry Shannon	WSTLA
Judy Berrett	WSBA Director, Member and Community Relations
Gail Stone	WSBA Legislative Director
Paula Littlewood	WSBA Deputy Director
Donna Sato	WSBA Executive Assistant

## **INTRODUCTIONS**

### **APPROVAL OF THE MINUTES FROM THE DECEMBER BOARD MEETING**

Governor Mungia made a motion to approve the minutes of the December 9-10, 2005 meeting; Governor Bastian seconded. Governor Mungia requested three corrections. The minutes were approved, as corrected, by a vote of 12-0-1. Governor Anderson abstained (she was not present at the December meeting).

### **REPORT ON EXECUTIVE SESSION**

President Taylor reported that the Board approved the minutes of the December 9, 2005 Executive Session; were presented with the litigation and discipline docket reports; reviewed a reprimand; received the annual audit report from the independent audit firm of Peterson Sullivan wherein the WSBA received their highest rating with no findings, footnotes or adjustments;

approved JRC recommendations; and, received an update on legislative strategy presented by Gail Stone.

### **CONSENT CALENDAR**

The Board approved proposed amendments to the Labor and Employment Law Section bylaws by the circulation of a written ballot.

### **FISCAL MATTERS – WSBA Treasurer Mark Johnson**

Treasurer Mark Johnson reported that the Budget and Audit Committee met earlier with representatives of Peterson Sullivan the independent audit firm that conducted the audit of WSBA for the 2004-2005 fiscal year. Peterson Sullivan complimented the WSBA staff for their work and clean audit report. Governor Johnson moved, seconded by Governor Pontarolo that the Board adopt the September 30, 2005 and 2004 Independent Auditors' Report. After a short question and answer period, a vote was taken. The motion passed unanimously.

Treasurer Johnson reported that a \$5,000 fund was approved by the Budget and Audit Committee to assist with accommodation and travel for two members with disabilities to attend WSBA committee meetings. Governor Davis will draft written criteria and guidelines for the use of this fund in the future. Johnson further noted that this initial \$5,000 amount was approved with the understanding that the fund may be replenished from time to time as needed.

Treasurer Johnson reported that the Budget and Audit Committee continues to review the WSBA's investment policy in light of the 2.56% earnings on WSBA investments which fall below the rate of inflation.

Treasurer Johnson concluded with a status report on the Armed Forces license fee exemption discussions. Johnson reported that Deputy Director Paula Littlewood is currently working on a re-draft of the current policy to tighten some of the unintended loopholes.

## **BOG MATTERS**

### **A. Bench Bar Press Committee (Appointment)**

Governor Anderson moved to appoint Kathy George, seconded by Governor Wiitala. Governor Berg moved to appoint Chi-Doo Li, seconded by Governor Mungia. Governor Burke moved to appoint Susan Craighead, seconded by Governor Olson. After discussion, a vote was called. Chi-Doo Li will be appointed to the Bench Bar Press Committee for another term.

### **B. Board of Judicial Administration Court Independence Response Team (CIRT) (Nomination)**

Governor Lawrence nominated Lish Whitson to the Board for Judicial Administration CIRT, seconded by Governor Johnson. Governor Wiitala moved, seconded by Governor Bastian to nominate Steven Buzzard. After discussion, a vote was called. Lish Whitson will be nominated to the Supreme Court for appointment.

### **C. Accessible Policy for Disabled Individuals**

Governor Davis reported that the BOG Diversity Committee is currently developing a policy to address disability access to facilities used by the WSBA. The committee will continue to work towards bringing the proposed policy to the Board for review and adoption at its next meeting.

### **D. 2005 WSBA Committee and Section Reports**

Executive Director Michels reported that the 2005 WSBA Committee and Section Reports are being distributed for informational purposes only and further noted that additional reports will be submitted as they are received. Several committees and/or sections have not yet responded and therefore were not included in the 2005 WSBA Committee and Section Reports as distributed today.

### **E. WSBA Community Service Award**

Governor Bastian, Chair of the WSBA Awards Committee presented a recommendation from the committee that the WSBA create a new Community Service Award to honor attorneys for outstanding community service in their communities. Governor Bastian moved to adopt a new WSBA Community Service Award, seconded by Governor Olson. The Motion passed unanimously by 12-0-0. (Governor de los Santos was excused).

## **ADMINISTRATION AND FINANCE DEPARTMENT REPORT – Julie Mass, WSBA Director**

WSBA Director of Administration and Finance Julie Mass reported on the day to day operations of the Finance and Administration Department of the WSBA. She presented the Board with a powerpoint report that included staff photos along with the basic duties and scope of responsibility for each staff member. Several Administration and Finance Department employees were acknowledged for their long-term employment with the WSBA.

## **RESTRICTING IOLTA FUNDING – Dan Fazio, Washington Farm Bureau and Jerri Honeyford, Yakima Farm Bureau**

Governor O'Sullivan and President-elect Dial recused themselves from participating in this matter since their firm represented the Washington Farm Bureau on another matter.

Dan Fazio, Washington Farm Bureau; and Jerri Honeyford, President of the Yakima Farm Bureau requested the Board's support for their proposal to modify the rule relating to IOLTA funding (RPC 1.14) to include the same restrictions as to case types and fund use as applied to state funds. Wayne Blair, former WSBA President and former Chairman of the Equal Justice Coalition spoke in opposition to the proposed rule modification and adamantly opposed any further action by this Board or the Court. The proposed change would limit the legal remedy available to the indigent. Governor Johnson moved, seconded by Governor Mungia that the Board oppose the proposed rule and further urge that the Court take no further action. The motion passed unanimously by 11-0-0. (Governor de los Santos was excused).

## **ACCESS TO JUSTICE AND THE IMPLEMENTATION OF ADA STANDARDS IN OUR WASHINGTON COURT SYSTEM – Former WSBA Governor, Randolph Gordon**

Former WSBA Governor Randolph Gordon spoke to the Board about the lack of ADA standards and the lack of the adherence to ADA standards throughout the Washington court system. He noted that Clallam County is the closest county to being in compliance with current ADA standards however, the overwhelming majority of counties are not in compliance and as a matter of access to justice this should be of keen interest to the WSBA. Governor Davis reported that the ATJ Board's Impediments Committee is currently working on guidelines and a possible new court rule. Governor Davis recommended that the Board work in cooperation with the ATJ Board and its Impediments Committee. A presentation of the ATJ Board's Impediments Committee report will be scheduled.

## **LEGISLATIVE REPORT – WSBA Legislative Director Gail Stone**

WSBA Legislative Director Gail Stone presented a status report on the (4-day old) current session. The Board of Judicial Administration's 2006 Justice in Jeopardy Initiatives were presented and discussed. Governor Berg moved, seconded by Governor Davis that the WSBA support the court operations component of the Justice in Jeopardy package. Jan Michels noted that the criminal public defense and civil equal justice components were previously approved by the Board. The motion passed unanimously (12-0-0). (Governor de los Santos was excused).

## **PROPOSED GOVERNMENT LIABILITY and REPORTER SHIELD LEGISLATION – Attorney General Rob McKenna**

Attorney General Rob McKenna presented two pieces of legislation: proposed Government Liability (limitation) Legislation and a proposed Washington Reporter Shield Legislation. (Accompanying Attorney General McKenna on the proposed reporter shield legislation were Roland Thompson from the Allied Daily's and Greg Overstreet from the AG's office).

The Reporter Shield Legislation would provide more protection to reporters' sources of information and work products; and the Government Liability Legislation would limit government liability as applying only to harm caused by the disobedience of statute, court order, law enforcement, or specific promises of protection and not hold government liable for actions where private citizens are not liable.

Attorney General McKenna requested the Board's consideration of endorsing the two bills. The Board took no action on the proposed legislation.

## **PRESIDENT'S REPORT**

By written report only.

## **PRESIDENT-ELECT'S REPORT**

By written report only.

**EXECUTIVE DIRECTOR'S REPORT**

By written report only.

There being no further business to come before the Board, the Board of Governors meeting was adjourned at 4:55 a.m., Thursday, January 12, 2006.

Respectfully submitted,

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M. Janice Michels