

**Philadelphia Bar Association
Board of Governors Meeting
April 23, 2020**

The meeting was called to order by Chair Kamau at 4:03pm.

Chair Kamau welcomed the board and described etiquette for participating in the meeting through Zoom.

Chancellor Snyder and Executive Director Hurdle presented a report on the activities of the Philadelphia Bar Association in response to the COVID-19 Pandemic. Chancellor Snyder thanked the Board for participating and described the busy month since the Board last met. This includes keeping members updated with court activities and orders and practices and procedures that have been coming out on a nearly daily basis, if not multiple times per day. He directed the Board to the COVID-19 Resource center which also includes other resources about applying for loans and other information. The success of providing this information is reliant upon the Bar staff, who have been incredible, and the Section and Committee Chairs who have been forwarding information as soon as they get it. They have also been in constant communication with the federal courts and the FJD, particularly with President Judge Fox. Judge Fox has indicated that we should anticipate an Order coming from the Court next week that may provide some guidance as to processes relative to Civil Motions and Discovery practice. This came about by a town hall meeting. State Civil Litigation had one of the very first town hall meetings, and accumulated questions and concerns, so they can be sent to the court in a package. Other sections and committees are being encouraged to do the same. The Association has sent a letter to the Board of Law Examiners requesting that they take action to administer the July Bar exam by remote technology, that they grant hardship waivers to students who are unable to pay for the Bar Examination because of financial issues related to the pandemic, and that they consider granting a limited license to practice for graduates from 2019 and 2020 who have not yet taken the Bar Examination, allowing them to practice on a temporary basis under the supervision of attorneys who have been licensed for three years or more, until December 31, 2021, or until they take a Bar Examination, whichever comes first.

Executive Director Hurdle explained what the staff has been doing. There is an incredibly high level of member engagement, which is measured by the open rate of emails. It has been 3-4 times higher than normal and participation in CLEs and town hall meetings has been exceptional. Sections and committees have been doing an excellent job planning and presenting CLEs and disseminating information, which is providing a value add for members. Other bar associations are interested in our incredible programming. The staff are working to continue transferring the enhancements to the web and to the database and to transferring the staff's systems to outlook so that they can share calendars and operate more efficiently. There will also be a virtual meeting platform that will be able to have a live and virtual component even after restrictions are ended. LRIS call volume is down substantially despite an aggressive social media campaign. This might be due to drop in legal proceedings, but it is consistent across the board.

There is real concern from a fundraising perspective of all the legal aid organizations, because there is a decrease in IOLTA money in addition to the challenges of fundraising in uncertain financial times. We had been doing well financially for the Association until the

second week in March. Since the Association is a 501(c)(6), not a 501(c)(3), it cannot benefit from the paycheck protection programs, however there are lobbying efforts underway to ensure that in the next stimulus bill 501(c)(6) associations are included, but the Association is not operating with an expectation of receiving those benefits. Once April is complete, Executive Director Hurdle will prepare a forecast for the year with reduced revenue and expenses for review by the Finance Committee. What has placed the Association in good stead was cutting a half million in expenses from last year's budget. There will be a substantial financial impact, but the Association is in a better position than it might have been had those cuts not been made. He will have a reforecast for the Board to review at the next meeting in collaboration with the finance committee. The staff has been incredible and they are meeting virtually and there is good comradery among the staff. We will continue to move the organization forward.

The minutes from the March 26, 2020 Board meeting were considered. Treasurer Zucker indicated his name was spelled wrong both in the minutes and the agenda, which will be corrected. Secretary Coatsworth thanked Assistant Secretary Kirkpatrick for taking such excellent minutes, as she was unavailable to take the minutes due to a personal conflict, though she did participate on the call. A motion to approve the minutes as amended was made and seconded and passed unanimously.

Treasurer Zucker presented the Treasurer's Report. As was noted at the March meeting, the impact of the COVID pandemic was underway, but since the report was looking at February numbers, the news was still good. That news is now souring, understandably, but not by as much as it might have, had the staff not been working so hard to keep things under control.

The Association's March revenue numbers were down by about \$200,000 compared to last year, and about \$172,000 less than was forecasted in the budget for the month. The year to date revenue number is likewise depressing, about \$242,000 less than what was budgeted for the first quarter. CLE is \$38,000 below budget. CLE Director Phoenix has converted a majority of the CLEs over to video replays, but now has begun to introduce some live CLEs. LRIS is \$32,000 above budget, which is good. Dues are \$219,000 below budget. There is also a decline in dues revenue and CLE revenue, which is understandable in these circumstances.

On the expense side, the news was actually very good. The Association's expenses were significantly lower than last March (by about \$30,000) and likewise significantly lower for the whole first quarter (by almost \$98,000), and well below what was expected, which is likely due to the inability to host planned events. Those numbers helped to offset the lower revenue numbers, so the net for the month was in the black, and the net for the year to date was likewise in the black. The problem, of course, is that the dues income we receive has to carry much of our budget for the year, so that may be depleted in the months to come. As Executive Director Hurdle noted, the Finance Committee will work to prepare a reforecast, but the fact that the Association is operating as well as it is can be credited to the outstanding work of the staff and the Chancellor.

A motion to approve the Treasurer's report was made, seconded and unanimously approved.

ABA Delegate Abraham Reich presented a report on the House of Delegates session at the ABA Mid-Year Meeting, which was taken out of order from the agenda. He and Buck

Buchanan have the privilege of serving as ABA delegates. This year, the ABA Mid-Year Meeting was held in Austin, TX in February. He highlighted a few points from the Daily Journal, which was circulated to the Board. The ABA House of Delegates represents a wide range of geographic regions and interests and there are resolutions addressing diverse subject matters from the rights of Native Americans to the rights of military canines. There were three resolutions dealing with gun rights, which were all of great importance. The cannabis practice had two resolutions, as the practice has been growing significantly in recent years. The first resolution was to eliminate the federal criminal offense for lawyers to provide legal advice to those in the cannabis business. This is consistent with the rules of Professional Conduct, which were amended recently to eliminate the ethical violation to provide advice on cannabis businesses. The other resolution would eliminate some of the barriers for banking and financial institutions to provide funding to businesses involved in the cannabis industry, because it is still a federal offense to provide these services to cannabis businesses.

He directed the Board to Resolution 115, which deals with legal services to low income and some middle-income people. It was important at the time, and even more so now. This was going to be the most controversial item on the agenda as it was originally presented, because it was suggested that people were advocating for deregulation of the legal profession so non-lawyers could provide some form of legal services and could have an ownership interest in law firms. The purpose of both resolutions was to deal with underrepresentation of the most needy in our society. Our Association is a champion of the civil Gideon movement, which although part of what we should be pushing for, it will not be a reality for quite some time. There are a number of jurisdictions that are trying to re-regulate the legal profession and being creative in ways to handle the demand for legal services including remote dispute resolution, virtual court services and evaluating the ways to resolve legal disputes. The proponents made it clear that the intent was not to deregulate the practice of law, but to think of ways we can better serve the underprivileged population of our country using virtual technology and non-lawyers to create opportunities to serve in the areas where people are most in need of help. The resolution was unmasked and was demonstrated to be proposing ways to provide legal services to the underprivileged and ultimately passed unanimously. He encouraged the Board to think of ways to operate outside the box to help serve the underprivileged community including harnessing the virtual society in which we are currently operating. He apologized on behalf of Mr. Buchanan that he could not be present for this month's meeting.

Jessica Feierman, Senior Managing Director of the Juvenile Law Center presented a Resolution Supporting HR 5053 or Similar Legislation to Protect Youth in Confinement by Exempting Youth from the Requirements of the Prison Litigation Reform Act. The resolution is about eliminating harmful legislation. The Prison Litigation Reform Act, which is current law, creates obstacles to the federal courts for everyone, but especially young people in the juvenile justice system by placing procedural obstacles for access to the federal courts. Children have to file grievances before they can file a lawsuit, and sometimes these grievances need to be filed with the same officers that are the subjects of their concern. It also limits the relief that can be sought and precludes recovery of attorneys' fees and it eliminates the ability to recover for emotional damage without physical injury. It makes it harder to get young people's cases before the federal courts. The law limits the relief to being narrowly tailored to address specific harm.

Representative Mary Gay Scanlon has introduced legislation, the Justice for Juveniles Act, which would exempt youth from the onerous requirements of the Prison Litigation Reform

Act, so the resolution would support Rep. Scanlon's proposed legislation. Lou Rulli commented that this is important legislation and pointed out the difficulties that inmates have in light of the procedural obstacles of the Prison Litigation Reform Act. Juveniles are being unfairly limited in the ability to obtain relief and he encouraged the Board to adopt this resolution.

A motion to approve the Resolution was made, seconded and passed unanimously.

Board Chair Nicholas Kamau presented a Resolution Opposing the Nomination of the Judge Justin Walker to the United States Court of Appeals for the District of Columbia. This came to light and there was very little information disseminated about the nomination of Judge Walker, who was nominated to the DC Circuit Court of Appeals, which handles a number of issues that affect the entire country, including Philadelphia. He was only recently approved by the senate for an appointment to the Western District of Kentucky. It is particularly concerning that the nomination was made while the country is necessarily preoccupied with the issues related to Coronavirus. The nomination was made under the stealth of night and it is important that we oppose this because Judge Walker was determined to be not qualified when he was recently evaluated for his District Court appointment.

Judge Moss commented that she feels this is so incredibly important, because so few cases get to the USSC and the real laws are made at the Circuit level. She thinks it's so important for us to weigh in, because he was determined not to be qualified to serve on the trial level so how could he be qualified to sit on one of the most important courts in the country. Dino Privatera asked whether the Association has a precedent for passing such a resolution and Chancellor Snyder replied that there is precedent in our resolution opposing Justice Bork. Secretary Coatsworth pointed out that the Association more recently opposed the appointment of Jeff Sessions as Attorney General. This was not a judicial post, but a comparable position. Past Chancellor Shelli Fedullo suggested a friendly amendment to add an additional provision of the Bylaws, which provides authority for the Board to comment on certain specified courts, and also states something to the effect of "or such other courts as the Board deems appropriate." She believes the Board's authority to comment should be specifically stated in the resolution. Board Counsel Larry Beaser was consulted and he agreed. He also suggested that we eliminate the notation of "Honorable Justin Walker" and instead amend the resolution to call, him Judge. He's entitled to that designation, but to call him Honorable would be inconsistent. He also provided language for a friendly amendment consistent with Former Chancellor Fedullo's comment stating the following: "**WHEREAS**, Section 7.2.2 of the Bylaws gives the Association the authority to be concerned with any court for which an individual is being considered and for which the Board deems such consideration appropriate; and"

Chancellor Snyder provided some additional background as to the reasons for the resolution. Judge Walker was rated not qualified by the ABA just last year and just three weeks after his investiture, he was put forward for the DC Circuit position. He has never conducted a trial, never sat as trial counsel, never served as second chair and his experience is scant. To seat him in the second most powerful court in the nation with no judicial or practical legal experience is an insult to every other federal judge. Dominique Ward asked if any other bar associations will be speaking out against him. Chair Kamau indicated that we know that the ABA has already spoken against him. If the resolution passes, there may be an effort to reach out to other metropolitan bar associations to see if we can work together to issue a joint statement.

Chancellor Snyder has prepared a statement that is under review, which will be put out if the resolution passes and hopefully this statement will be made in partnership with other Bars.

A motion to approve the Resolution was made, seconded and passed with overwhelming support. Dominique Ward abstained.

Chancellor Snyder made his announcements. In the past, the report would be a recounting of the meetings, food and fellowship the Chancellor enjoyed. The food and meetings have been absent, but the fellowship has been tremendous. He has attended a number of town halls and meetings virtually and the participation has been tremendous. CLEs have been sold out and members who attend the meetings virtually are engaged. His Friday messages are meant to be funny and informative and have received an outstanding response, and he responds individually to each message he receives so he can stay in touch with members. The Wellness committee has also stepped up with a series of weekly programs on Mondays and provide an element of a skill to assist with mental well-being. There will be a weekly “chat and chew” meeting for the Wellness Committee where they will supply a topic and Mike will participate. The committee chairs have been incredible as have the section chairs. The Diversity Advisory panel is putting together a program on May 7 for CLE credit dealing with the impact economically and socially that result from lack of diversity and to show quantitatively how diversity is “good business.” The panel will be moderated by Melissa Pang and Chancellor Snyder will introduce the panel. Chancellor Snyder also created a Past Chancellor Advisory Panel, which has been an incredible resource for him, which he hopes can also serve as a resource for future Chancellors. He also discussed ways to enhance members’ mental health and well-being. There will be a statement about what they are doing in this regard.

He has also been in contact with the Board of Law Examiners and the Academic Engagement Committee and the law school deans. This was due to the lack of consistent rapid action by the Board of Law Examiners relative to the unique problems that affect law students this year who are planning to take the bar exam in July or later. This includes a request and strong urging that the Board of Law Examiners should extend the deadline to pay the fee to take the exam and that the discounted rate offered for early payment should be extended. The Board ultimately agreed to extend the deadlines. They are discussing further action. There is also a request by the deans for greater latitude for waiver of fees because of the hardships of the pandemic and the inability to work. There was also an idea advanced about a limited license to practice law for students who graduated in 2019 or 2020 who cannot take the exam because of the pandemic. The limited license would be issued for the students to practice under supervision of a licensed attorney until they take the exam, and there is a time limit for when they must take the exam. Once they take the exam, whether they pass or fail, the temporary license expires, and if they pass, the license becomes a permanent license. The Chancellor has communicated the Association’s position in favor of this provisional licensure to the Board of Law Examiners. The Chancellor has also been continuous communication with the various sections regarding issues related to the courts.

He has also been in contact with the CLE board and Director of CLE Tara Phoenix was incredibly helpful in getting the CLE Board to agree that all credits can be taken through distance learning this year. The Bar Association has jumped on the potential for distance learning and created a broad panel of programs. Tara indicated that if anyone has associates in their firm who still need to take Bridge the Gap, it has not been approved for distance learning. Bridge the Gap

is the only program that the CLE Board said still has to be taken as a live program, which cannot be done until live programs resume in August. Chancellor Snyder indicated he believes this was a bit shortsighted as it puts the young lawyers at risk.

The Spring Quarterly was unfortunately canceled. The Summer Quarterly will have to be conducted virtually and hopefully the Higginbotham lecturer will be able to deliver that lecture virtually on a different date. The speaker was scheduled to be Professor Evelyn Brooks Higginbotham, the widow of Justice Higginbotham. She holds an endowed Chair at Harvard University and she speaks frequently on women's history and the Suffrage movement, particularly the impact of the movement on women of color. She is a noted scholar in her own right and this is perfect timing because of the 100th anniversary of the passage of the 19th amendment. This will still be a unique experience, though it cannot take place in person.

Serving as Chancellor has been an absolute joy. It's not as he envisioned it, but it's better and he thanked the Board for that.

Chair Kamau made no announcements.

The meeting was then adjourned at 5:12pm.

Respectfully submitted,
Jennifer S. Coatsworth
Secretary

**Board of Governors Attendance
April 23, 2020**

Voting members present

Hon. A. Michael Snyder (Ret.)
Lauren McKenna
Wesley Payne
Jennifer Coatsworth
Kathleen Kirkpatrick
Marc Zucker
Matthew Olesh
Nicholas Kamau
Riley Ross
Benjamin Barnett
Meghan Claiborne
Francesca Iacovangelo
Alisha Rodriguez
Michael van der Veen
Dominique Ward
James Berardinelli
Diane Penneys Edelman
Lawrence Felzer
Dino Privitera

P. Douglas Sisk
Neelima Vanguri
Wendi Barish
Kris Calalang
Erin Lamb
Craig Levin
Nipun Patel
Andre Webb
Hillary Ladov
Michael Zanan
Randi Rubin
Maureen Farrell
Arly Smith-Pearson
James Tolerico
Cheryl Upham
Mark Mazzanti
Rochelle Fedullo
Amber Racine
Reginald Shuford

Absent:

Tom Innes
Reuben Asia

Non-voting members present:

Lawrence Beaser
Leslie John
Abraham Reich

Harvey Hurdle

Absent:

Butler Buchanan

Invited guests present:

Louis Rulli
Natalie Klyashtorny
Nikki Johnson-Huston
Hon. Sandra M. Moss (Ret.)

