

**Philadelphia Bar Association
Board of Governors Meeting
May 30, 2019**

The meeting was called to order by Chair Racine at 4:06pm.

The minutes from the April 26, 2019 meeting were considered. Secretary Coatsworth thanked Assistant Secretary Lefton and praised the excellent minutes. A motion to approve the minutes was made and seconded and passed unanimously.

Treasurer Marc Zucker gave the Treasurer's Report for the period ending April 30, 2019. The Association is well-within budget and there is positive news to report. The Association brought in more than \$30,000 in revenue in excess of budget, in particular, collecting dues much more quickly this year than last year. Dues revenue exceeded budget by more than \$66,000, which is \$8600 more in dues revenue than was collected during the same period last year. CLE revenue is also up, about \$6,000 over expectations. This is offset slightly by a slight decline in LRIS revenue and other line items, but they netted out in a positive way.

Unfortunately, overall, revenue is still lower than last year in that period by almost \$52,000, which is primarily due to USI royalty. The timing of those royalty payments also skewed the numbers somewhat. The positive news is that expenses were reduced by \$34,000 compared to the budget for the first four months of the year, primarily in the areas of benefits, LRIS expenses and stationary expenses. This equates to \$39,000 less than what was spent during the same period last year. This will ultimately even out over the course of the year, but for now, it is very good news.

Overall the Association is ahead of budget, in the black by more than \$66,000, relative to the budget. Further, this puts the Association within \$11,000 of USI gap. Treasurer Zucker reported that we are on track to continue this trend and thanked Chancellor Fedullo, Executive Director Hurdle, CFO Susan Knight, and others who have focused on improving the financial health of the Association. A motion to approve the treasurer's report was made, seconded and passed unanimously.

Board Member Susan Pearlstein, of Philadelphia Legal Assistance presented a Resolution in Support of Proposed Amendment of the Comment to Pennsylvania Rule of Evidence 401. This resolution concerns a comment to Rule 401, the rules related to relevance. Philadelphia Legal Assistance became involved because of immigration status inclusion. The classes are generally not considered relevant or admissible. It is not a per se preclusion, and the evidence can still be admitted, if relevant. The presenters did not have sufficient time to have all of the sections and committees take a position. The Criminal Justice Section had some concerns, which Board Member Susan Lin will address. The Family Law Section did not vote on the proposed changes from Criminal Justice, but Ms. Pearlstein believes it would support the suggested changes. Ms. Pearlstein pointed out that this resolution is consistent with the prior resolution passed by the Board regarding ICE in the courts, because people with questionable status are scared about becoming involved in the justice system in any capacity, including victims of sexual violence and assault or in family law related issues. The resolution is not a complete preclusion of evidence. Board Member Beaser made friendly amendments including adding

language related to adding trier of fact and attorneys to the third whereas clause. There was also a punctuation issue.

Board Member Lin through Chair Racine reported that some members of the Criminal Justice Section Executive Committee had concerns about when immigrant status may be relevant. Specifically, the concerns are that if the proposed comment is interpreted strictly it may inhibit criminal defendants the ability to cross examine witnesses. She explained that often, in a criminal case, a witness's "status" as described by the proposed comment may be relevant to that witness' possible bias in testifying. For example, the marital status of the complainant may be relevant in a rape case where the defendant claims the sex was consensual and the married complainant claims rape. A complainant's status as an undocumented immigrant may be relevant to show that the witness is simply trying to earn a U-visa (given to those who law enforcement has certified helped them in an investigation and prosecution of a case). Someone's political beliefs may be relevant to a First Amendment defense against criminal trespass or disorderly conduct charges. A complainant's mental health disability is certainly relevant if the disability goes to their ability to observe, remember, or to testify truthfully. A mental health disability could also be relevant to show who is a first aggressor in an assault case. In other words, if the proposed comment is interpreted literally and strictly, it could prevent a criminal defendant from fully exercising their right to cross-examine witnesses against them. Concern was expressed that this comment could cause criminal courts to restrict a defendant's cross examination in a large number of criminal cases involving civilian witnesses or complainants.

There were some members of the Criminal Justice Section Executive Committee who outright opposed the resolution when it was presented via email. The Section's Executive Committee did not have sufficient time to hold an actual meeting on the issue before it went to the Board of Governors.

In order to address the concerns about infringement on the Constitutional Right of Confrontation, Board member Lin proposed adding two paragraphs:

- 1) After the last "whereas" paragraph, add a paragraph that states -- "Whereas, the comment to Pa.R.E. 401 must also clarify that the amendment is not meant to restrict a criminal defendant's constitutional right to present a defense and confront and cross-examine adverse witnesses."
- 2) Add a paragraph before the last paragraph stating, "And be it further resolved, the proposed amendment should also clarify that it is not meant to restrict a criminal defendant's constitutional right to present a defense and confront and cross-examine adverse witnesses."

Secretary Coatsworth pointed out that the Pennsylvania Bar Association Civil Litigation Section put forth nearly the identical resolution before the Pennsylvania Bar Association Board of Governors and House of Delegates, both of which easily passed the Resolution, which is consistent with prior policies of both Associations.

The friendly amendments were accepted by Board member Pearlstein and the Motion to support the resolution as amended was made, seconded and passed with Assistant Secretary Lefton abstaining.

George Gould and Michael Carroll of Community Legal Services presented a Resolution Concerning Service in Landlord-Tenant Actions Filed in the Philadelphia Municipal Court in Which the Landlord is Seeking a Judgment in Order to Regain Possession of the Property Through the Use of Lawful Process. There has been a change in promulgation of rules for the municipal court, so that they are now consolidated under the minor court rules committee and will reside under that committee per order of the Pennsylvania Supreme Court. This resolution urges the minor court rules committee to make two changes to the municipal court rules related to service in eviction proceedings. The first change would be that service of an eviction notice/complaint would require an attempt at personal service, which is currently not required in Philadelphia, but is required in the rest of the commonwealth. The second change would be the Writ of Possession, served 11 days after entry of judgment, would also require an attempt at personal service, which is currently not required. Community Legal Services rarely has clients who received copies of the Writ of Possession, so they don't know they are being evicted, until the eviction is taking place. The resolution also suggests there be a study so that if there is a posting on the property a GPS photo of posting in a conspicuous place, this is consistent with the process for tax cases. Service of complaint and Writ of Possession would also need to be docketed. The Supervising Judge of Municipal Court approves of the resolution, as does the Real Property Section and Public Interest Section. This is an important issue because it pertains to someone's shelter and it may impact other issues in their life including their job, custody, etc. If they get fair notice, at least there is a better chance they can avoid these consequences. It is not a new substantive right that is proposed by the rule, just ensuring notice. This is also consistent with prior positions of the Association regarding right to counsel in eviction proceedings.

Chancellor Fedullo stressed the point regarding Right to Counsel legislation made by City Council and strongly supported adoption of the resolution. Board Member Beaser made a friendly amendment to the stylistic language, which was accepted. A motion to approve was made and passed with Secretary Coatsworth abstaining.

Community Outreach and Engagement Advisor Priscilla Jimenez presented an update on Community Outreach Programs. She is planning a law student outreach event for diverse law students at the area law schools either at the end of the summer or shortly after school starts and will be worked on with Diversity Chair Reggie Shuford and Diversity in the Profession Committee Chair Sharbrei Parker. She is also working to present a Know Your Rights Clinic in partnership with Consilio, a non-profit, and the purpose is twofold...to increase LRIS awareness and to host events in the community and partner with non-profits in the community. The agenda is being developed. She met with the Executive Director of Consilio to work on this project and they are excited about it. She anticipates the event will be held in September or October.

Executive Director Harvey Hurdle presented the Quarterly Executive Director's Report. He stressed the Association is still working on the three pillars: building the platform, making the numbers and raising the profile. The Association has a new IT vendor, Dataprise, and the contract is signed. They are in the investigative period of their work. Barry Greenspan is under subcontract to aide in the transition. He has been very gracious and helpful in this process. The Association will replace networks and email systems to build the platform.

Making numbers good news continues through May, at the end of today, the Association is \$79,000 ahead of last year as far as dues revenues, and June numbers have already been

achieved. The Association is \$18,500 ahead of last year's numbers. We have to raise \$56,000 to make budget and \$123,000 to exceed last year. We have section and committee reports from the chairs, and Section numbers are down except Public Interest and they will work to raise section membership numbers with each section and develop a plan. There will be a campaign for lapsed members. Right now, the focus is on renewal. CLE numbers were \$6,000 ahead of budget and \$25,000 ahead of last year. We have a verbal agreement to be the CLE provider for Montgomery County, which we hope will be replicated in other collar counties. CLE is ahead of numbers, because we are the best CLE. Sections and committees provide the material. Executive Director Hurdle encouraged Board members to take the time to vote for the Association as the best CLE provider. Voting ends on June 14. There is a Twitter campaign as well to support voting. The Association is behind on LRIS because of system conversion, so panel fees are behind. This is expected to recover, because the program will be stepped up in the third quarter. Sponsorship will be discussed later.

For Raising the profile, the media team is "killing it." The focus in May was on two things – judicial elections and right to counsel legislation. There was a tracker distributed to all the Board members regarding all of the outreach. Significant efforts were made to raise the profile on the judicial commission. In 2017, 2,136 people saw sample ballots before they went to the poll. In 2019, 27,529 people saw our sample ballot, which made a significant impact. Three out of four of the Association's highly recommended judges were elected and the Association received a nice letter from the fourth praising and thanking us for our efforts. The highly recommended candidates also came out from difficult ballot positions. Also, non-recommended came out well, as none of the Associations not recommended candidates were elected. This was a great result and those who participated in the distribution efforts were thanked. The Association was congratulated on its performance by the politicians. The City Committee only came out at 50%, despite good ballot positions and the Association fared much better. The Association spent \$10,000 more this year than the 2017 election and switched to a social media push than traditional media. This was an enormous victory for the Bar Association. One of the only traditional media ads that was placed was a half page ad appeared in the University City press. Executive Director Hurdle relayed that as an election judge, he had a woman whose phone died and she wouldn't vote until she could get it working so she could see the Association's recommendations. On the Right to Counsel partnership with Community Legal Services there was a shared one pager. Executive Director Hurdle and Director of Public and Legal Services Charlie Klitsch met with the Association's lobbyist, David Hyman, and each City Council member. Councilman Domb quoted from the Stout report, which is what they were going to present, and it went incredibly well.

Director Hurdle reported that the Association has a new source of revenue, which is BPU, provider of pension services. This was put into place by CFO Susan Knight. We want this to be similar to USI, because we have a revenue sharing agreement. He encouraged Board members to take the call from BPU and put them in touch with the person who manages pension plan in their office. BPU has been the manager of the Association's plan since 2005. They provide financial and retirement planning education, which would be offered to firms as well. They are also a long-time sponsor of Bench Bar, and provide CLEs at Bench Bar. They would come in and provide a complete analysis for Board members' firms and will beat the cost of existing plans. Board members and their firms benefit from the price efficiencies and there is also individual education. An analysis was done for each Board member's firms, if available, and

they were provided to each Board member. Board members were asked to assist in getting BPU a meeting with the person who manages the pension plan in Board members' firms.

Chancellor Fedullo, reported that she loves being Chancellor and we the Board expressed that it loves having her as Chancellor. She praised the Executive Director and the staff. She relayed that she received compliments on the job the Bar Association did on the judicial candidates. She praised the work that the Judicial Commission did in service to the public to vet the candidates and stressed the great job the Association did campaigning for the recommended and highly recommended candidates. She particularly thanked Assistant Treasurer Olesh and Vice Chair Nick Kamau for their efforts in leading the Association's campaign to publicize the Judicial Commission's ratings. She presented them with the first ever Chancellor's Service Award. She is so grateful and proud of both of them, and she indicated this is what leadership looks like.

Chancellor Fedullo next pointed out to the Board that the Right to Counsel effort is a huge undertaking and very important to the Association and our citizens who are people of limited means who are facing eviction. Councilwoman Gym introduced Right to Counsel legislation to assist those who are in this situation. Public Interest Coordinator Merrill Zebe was very helpful in getting Chancellor Fedullo in front of Council and involved in the press conference. She described the testimony of a litigant who explained how it felt to attend a court hearing without counsel, which is so scary because they could lose their housing. She thanked Executive Director Hurdle for all the hard work he put into advancing this issue.

Chancellor Fedullo announced that the Quarterly will be June 24, with Charisse Lilly presenting the Higginbotham lecture. She was mentored by Judge Higginbotham and Chancellor Fedullo praised Charisse's accomplishments over her career. The Sotomayor Award for the first time will be presented at the same time as the lecture, which makes sense. Judge Patrice Tucker will receive that award and she is a very worthy recipient. She announced the Chancellor's forum in partnership with the Brandeis Law Society, When the Rule of Law Fails: Lessons from the Holocaust. She expressed the importance and significance that this program has for her in light of her father's imprisonment in the camps and encouraged Board members to attend. She described the speakers who are a Holocaust liberator and survivor and Justice Wecht will talk about the Rule of Law. We have to think about what it means to protect everyone's civil rights.

She announced the mentoring program is also off to a good start. The matchups have been done, which was labor intensive. There are 78 people in 12 mentoring groups and there are 100 one on one mentoring relationships. The next task for the mentoring project will be mastermind groups for people of similar interest and experience who can meet together and challenge one another. There will be a reception in the summer. This is a positive way we are helping our members. She also highlighted the article in the Legal about the judicial elections.

Chancellor Fedullo presented on the Appointment of members of the Elections Committee. Immediate past Chancellor Platt will chair the committee. She nominated the following people to that committee: Kevin Mincey, past Board Chair; Larry Felzer, current Board member; Francesca Iacovangelo, current Board member; Nikki Ingram, WIP Co-Chair; Sayde Ladov, former Chancellor; Kathleen Wilkinson, former Chancellor and Vice President of the Pennsylvania Bar Association; Patricia (Puddy) Toland, former Chair of the Board of

Governors; Michael Van der Veen, current Board member and Chair of the Civil Litigation Section. A motion to approve was made, seconded and unanimously approved.

Chancellor Fedullo read an email from Tobey Oxholm of Philadelphia Lawyers for Social Equity about the approval of the new form for Applications for Clemency, which was just approved pursuant to PLSE recommendations. The new form will not request details about criminal history records that have been ordered expunged, nor will it ask for information about ARDs that have been successfully concluded. He thanked the Board for taking a position previously on the resolution supporting those changes, because the Board of Pardons listened to the Association's position, so the work the Board of Governors does matters.

Chancellor Fedullo also announced that Federal Bench Bar is next week on Wednesday and will be great. She reported that she overheard one of our Board members say to someone else that our Board is like one big happy family which thrilled her.

She is proud of the stands we take.

Chair Racine reported that if Board members' individual commitments are satisfied, you would have already been notified. If not, she will contact each Board member, because commitments are tied to the Association's budget. She displayed a goal thermometer, which indicated slightly under 35% complete. By July, we will be in the first month of the third quarter, and should be close to 60%. She will have a surprise when we finish, and we will have a toast each month on her, if we finish early. For Bar activities, she announced that the Education Law Committee drive is still going until tomorrow and you can still donate. Jazz in June for the NBA WLD will be June 6 at 6pm at the Kline School of Law. The awardees are all friends of the Bar Association. The WLD Legacy Awardee is Judge Allen, the 2019 Hon. Doris May Harris Image Award will be given to Rhonda Hill Wilson and Kenneth A. Murphy will receive the 2019 Renaissance Man Award. Attendance at this event would count toward satisfaction of Board Members' diversity requirement.

There being no further business, the meeting was adjourned at 5:01pm.

Respectfully submitted,
Jennifer S. Coatsworth
Secretary

Board of Governors
Attendance
May 30, 2019

Voting members present

Rochelle Fedullo
Hon. A. Michael Snyder (Ret.)
Jennifer Coatsworth
Ira Lefton
Marc Zucker
Matthew Olesh
Amber Racine
Nicholas Kamau
Katayun Jaffari
Susan Lin
Hon. Sandra Mazer Moss (Ret.)
Maureen Olives
Jennifer Seme

Benjamin Barnett
Michael van der Veen
Dominique Ward
Lawrence Felzer
Dino Privitera
Riley Ross
P. Douglas Sisk
Neelima Vanguri
Maureen Farrell
Erin Siciliano
Cheryl Upham
Mark Mazzanti
Mary Platt

Absent:

Lauren McKenna
Neil Maskeri
Meghan Claiborne
Francesca Iacovangelo
Alisha Rodriguez
James Berardinelli
Diane Penneys Edelman
Michaella Tassinari

Hillary Ladov
Marcel Pratt
Leon Goodman
Kris Calalang
Brenda Marrero
Alexander Barth
Reginald Shuford

Non-voting members present:

Lawrence Beaser
Wesley Payne

Harvey Hurdle

Absent:

Leslie John
Abraham Reich

Butler Buchanan

Invited guests present:

Priscilla Jimenez