

**Philadelphia Bar Association  
Board of Governors Meeting  
September 24, 2020**

The meeting was called to order by Chair Kamau at 4:04 pm.

A moment of silence was taken to honor Justice Ruth Bader Ginsburg and those who have passed away from COVID.

The minutes from the August 27, 2020 Board meeting were considered. Secretary Coatsworth thanked Assistant Secretary Kirkpatrick for taking the lead and drafting last month's minutes. She also noted a bit of housekeeping on the record. The minutes list the Secretary as an Ex-officio member of the Elections Committee. However, because she is a candidate for Assistant Treasurer, she will not be participating with the Committee moving forward, but will only assume those duties as prescribed to the Secretary in the Bylaws. A motion to approve the minutes was made and seconded and passed unanimously.

Treasurer Zucker presented the Treasurer's Report. It is good news for August. The Association's revenues were \$62,000 better than expected for the month of August, and \$170,000 better than expected for the year to date. Compared to last year at this time, the Association brought in about \$422,000 less than in the first 8 months of 2019, but this has been compensated on the expense side. The Association spent about \$8000 less last month than expected, and about \$36,000 less over the past 8 months than was expected under the revised budget. More significantly, the Association spent about \$433,000 less than last year.

Overall, in the past 8 months the Association took in about \$2.3 million and spent only about \$1.8 million, which is great news and should position the Association well for the rest of the year. The staff was complimented on efforts to stay within budget.

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

Andrew Christy, a representative of the ACLU of Pennsylvania, presented a Resolution Regarding Proposed Rule Changes with Respect to Access to the Courts *in forma pauperis* for Individuals Who Cannot Afford the Costs of Litigation. The Civil Procedural rules committee of the Supreme Court put out a proposed rule change as to how *in forma pauperis* works. The deadline for comments is October 9. He highlighted a few points from the resolution. Most of the changes would suggest moving away from the Civil rules and to the Rules of Judicial Administration. The impetus for the changes were that Justice Wecht had concerns that too many people were prevented from accessing the courts because of filing fees. The proposed rule inadvertently makes it more difficult to obtain *in forma pauperis* status.

The Resolution provides specific feedback to the rules committee about specific aspects of the proposed rule that require revision, and which provisions represent a positive change. The primary positive change is that the proposed rule provides automatic criteria that allow people to obtain *in forma pauperis* status. Anyone who gets free legal services, anyone who gets means based public assistance, and anyone whose income is less than 200% of federal poverty guidelines and has assets less than \$10,000 excluding a house and car. These are reasonable criteria, and represent a positive step.

However, the negative aspects of the proposed rule are numerous. First, it limits the fees to which *in forma pauperis* status applies. The new proposed rule applies only new filings or costs associated with filing an appeal and excludes many other fees that occur within the expense of litigation. For instance, motions are not included in the proposed rule. The rule, as proposed, also rolls back the ability of legal assistance attorneys to file a praecipe to obtain *in forma pauperis* status. People who don't fall into the automatic categories enumerated, would be required to submit to a hearing. This puts an onerous burden on the courts, because in most cases *in forma pauperis* status is granted pretty regularly without the need to submit to a hearing, so now the courts will be overly burdened with the requirement to hear every application for *in forma pauperis* status. It also creates payment plans for payment of court fees. There is also a significant documentary requirement in the proposed rule, which is a change from the current procedures, and this is also too onerous for those seeking *in forma pauperis* status.

The resolution specifically proposes that the rules committee should do certain things to improve the proposed rule, consistent with the perceived intent of the Rules Committee. First, the *in forma pauperis* status should apply to all court costs. Additionally, legal aid attorneys and those who provide free legal services should still be able to file a praecipe to obtain *in forma pauperis* status without the documentation requirements for a full application for *in forma pauperis* status. VIP also suggested that if *in forma pauperis* status is granted because of free representation by an attorney, if that attorney withdraws, the *in forma pauperis* status should remain. There is also significant concern regarding the documentation requirements, because it creates an undue burden to the applicants to obtain pay stubs and other required documents and requires numerous trips to the court and public assistance offices. The application already requires that the person applying signs an affidavit under the penalty of perjury that the information contained in the application is accurate, which should be sufficient. They are also concerned about the number of hearings, so they suggest that the court only schedule a hearing if the court is inclined to deny the application or if there are concerns about the accuracy of the information provided.

Another concern addressed by the resolution is that as the proposed rule is currently drafted, an applicant can still get *in forma pauperis* status if he or she doesn't fall into one of the automatic categories, but would need to show a significant hardship. However, there is no standard set forth in the rule as to what constitutes as a significant hardship. Therefore, the resolution suggests that some of the case law that defines this criteria should be included in the rule.

There are also issues concerning the scope of the proposed rule and its current application only in the context of civil cases. The rule is moving from the rules of Civil Procedure to the Rules of Judicial Administration, but the way the proposed rule is written, it omits several categories of cases to which it should apply. One such category of cases are those involving orphan's court. For instance, there are issues where citizens cannot afford probating their will and these should be included in the rule. Also, it should be expanded to cover fees and costs in criminal cases. In the criminal sphere, it should be focused on costs that serve as access to justice issues such as expungement or clean slate.

The resolution also attempts to make changes that will streamline the process and proposes more simple language. For instance, even the term *in forma pauperis* is a challenge. Court filing offices should make information about making applications for *in forma pauperis*

more public and readily available/known. Additionally, the idea of a payment plan is disfavored, because it imports criminal concepts. Also, there are no regulations or guidance as to how to manage the payment plans and the consequences of failure to pay. Finally, if the person who receives *in forma pauperis* wins a money judgment, they would have to repay the fees that have been waived and they believe this runs counter to normal civil procedures.

This resolution was supported by the Delivery of Legal Services Committee and the Public Interest Section. It was also vetted through the Executive Committee of the Criminal Law Section.

Treasurer Zucker pointed out that the procedural changes constitute an access to justice issue, and even though these are technical revisions, they truly have a material impact on the outcome for litigants and access to justice. He commended Mr. Christy, Reggie Shuford and others from the ACLU for their work on this. Larry Beaser agreed with Treasurer Zucker and indicated there was a constitutional issue with one clause. It appears on page 3, and relates to the expungements, clean slate and pardons. He indicated that the Supreme Court does not have authority over pardons, and therefore, he recommended the word pardon should be removed. Mr. Christy indicated that the reason the word pardon is included is that there are filing fees associated with obtaining documents required for pardon applications. Larry Beaser suggested a revision consistent with Mr. Christy's response as follows: "Similarly, the proposed Rule should cover fees that impair equal access such as expungements, Clean Slate and fees to obtain copies of records necessary to apply for or obtain pardons." The proposed amendment was accepted.

Lou Rulli also commended Mr. Christy on dealing with this critical issue. It is very detailed, but it's necessarily so. He indicated that it was unfortunate that the Civil Rules Committee did not consult with members of the legal aid community when developing this rule, because it missed its purpose and intent. It was noted that Mr. Rulli also participated in the crafting of this resolution.

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

Chancellor Snyder provided a report on Association activities and led a discussion of the Association's leadership role in preparing for the upcoming election. The Association has been consistent in advocating for fair elections, and ensuring that people who deposit their ballots in the mail can be assured that their ballots will be received and counted. The Association also participated in the Take Action Philly program to assist with volunteers for poll watchers and workers. There will be a CLE program on October 6 to train people to be poll watchers and poll workers. If you volunteer, the cost for the CLE is free. We have been consistent in interviews about the need for an election that is full, fair and participatory and the need for poll watchers and poll workers. He indicated that he and Executive Director Hurdle have already made the decision that any staff who wish to take paid time off on election day to participate in the election process may do so without taking any vacation time. There is a growing national movement for law firms to give employees time off from work to vote or work at the polls or to close their offices. He asked whether the Board believed that there should be a statement released encouraging law firms to close on election day or to provide the same allowance to their employees.

Riley Ross asked if the poll watcher and poll worker included work inside or outside. Chancellor Snyder indicated that the CLE program is for both, a poll watcher and a poll worker.

CLE Director Tara Phoenix indicated this program is open to non-attorneys and attorneys. Diane Edelman asked if law students could participate in the training and volunteer, and Ms. Phoenix affirmed that they can, so she indicated this would be promoted in the law schools. YLD Chair Hillary Ladov indicated the YLD is also promoting the CLE to the YLD listserv, which hits the law school membership as well. She also commended the idea of encouraging law firm closures on election day and indicated that the Bar Association's position in support of this concept would be an important tool that she could use at her firm.

Larry Felzer indicated that the Senior Law Center has given its employees off for several years on election day. Lou Rulli commended this as well and asked if it should be expanded to educational institutions. He suggested that he and many other professors have canceled classes that day. He suggested that it is so critically important to encourage the right to vote, so we should address the statement to other employers beyond law firms. Leslie John indicated that Ballard Spahr is closing early that day to allow voting and those who are working to work on election protection are permitted to take the whole day and she supports this measure. Chancellor Snyder agreed to Lou's suggestion to expand the scope of the statement beyond law firms. Mike Van der Veen indicated his firm is also closed and everyone is encouraged to work at the polls. Additionally Arly Smith Pearson indicated Philadelphia Legal Assistance is also closed on election day.

Mr. Van der Veen also pointed out that each county has their own individual sign up and the training is different by county when you sign up. He indicated that some counties have so many workers that all won't be chosen and other counties have a great need. However, it is important to sign up early, because you must be trained in the specific county. This also impacts the ability of law students to be trained. Secretary Coatsworth pointed out the difference between a poll watcher and a poll worker. The poll watcher stays outside but the poll worker goes inside. You must live in the county to be a poll worker, but you can be a poll watcher if you don't live in the county.

Riley Ross asked if the Bar Association is participating in providing information or training about addressing legal issues raised by the poll watchers and poll workers particularly when there are legal challenges. Chancellor Snyder indicated that he would work on that to facilitate that training. Craig Levin indicated there is a need for volunteers for pre-election work, and there is also a need for attorneys to work as poll monitors after election to monitor the counting of ballots. Lou Rulli and Diane Edelman indicated they would work on encouraging the students to participate in the training and asked Chancellor Snyder to contact the area law deans. Randi Rubin indicated she has been a volunteer lawyer on election day and indicated it is rewarding and encouraged others to volunteer. She indicated they are looking for volunteers at the local level as well.

Matt Olesh cautioned that if there is information being disseminated by the Association, it should be distributed in a bi-partisan fashion. Executive Director Hurdle confirmed this and indicated that the Committee of 70 information is on the website. Reggie Shuford indicated that the ACLU of PA always participates in election protection in a non-partisan fashion and they are working with Common Cause this year. He asked whether the Association would be well-received in non-legal sectors and advised against expanding the proposed statement beyond the legal community. He also asked about the ongoing legal efforts particularly with regard to the issue of non-resident poll watchers and suggested that the Association should be mindful of those rulings. Lou Rulli suggested we could reach corporations through corporate legal departments.

Chancellor Snyder also indicated this would be consistent with the principles of equal access to justice.

Chair Kamau indicated that since the group supported a statement to the firms that they should close or allow their employees time off. Chancellor Snyder asked if there was anyone who did not believe he should make such a statement and no one did.

Chancellor Snyder led a discussion on the timing of the nomination and confirmation of a replacement for Justice Ruth Bader Ginsburg and the Association's position regarding same. Chancellor Snyder indicated that this is being raised, because the Association may want to take a strong position relative to the timing of the nomination and a vote on the confirmation. The argument to be made would be that the process should be consistent with the Merrick Garland nomination. The President is intending to make a nomination on Saturday, so any proposed statement won't affect the nomination, but the idea would be to focus on the confirmation vote. Secretary Coatsworth indicated the statement likely won't have an effect, but it should definitely be made. Randi Rubin agreed as did Treasurer Zucker and he suggested that the focus be placed on the difference between the Garland nomination and the lack of consistency by the Senate, which he believes is a non-partisan position. Reggie Shuford indicated that another issue that could be raised in light of the speed with which the Senate is moving is that it is a very rushed process and a reasonable argument should be made that the Senate is failing in having a thorough vetting process, which constitutes an abrogation of their responsibility to advise and consent. Vice Chancellor Payne suggested that we should be careful on the timing issue, because Justice Ginsburg was confirmed in 42 days. He suggested the consistency issue should be the focus of the statement. Erin Lamb agreed that the statement should be limited and should be non-partisan.

Executive Director Hurdle raised the concern that the statement could be viewed as partisan and perhaps alienate some members, and would not likely have any significant impact. He also pointed out that as a Bar Association, there is not a legal precedent on which we could base our statement that says that anything they are doing is wrong. Immediate Past Chancellor Fedullo agreed with Executive Director Hurdle. She believes it would be a weak statement that would not have any impact on the outcome. Also, such a statement would validate the action they took with Judge Garland previously. Assistant Treasurer Olesh agrees with this position as well. Director of Public and Legal Services Charlie Klitsch indicated that the Association did not issue any statement on the issue of Merrick Garland in 2016.

Riley Ross indicated that although this would be viewed by some as partisan, he has a hard time with the Association holding its tongue when something wrong is being done just because it's viewed as being political. He thinks if the Association can't speak on the issue of who serves on the Supreme Court then when can it make a statement.

Lauren McKenna indicated there were many times this year where the Board had to determine if a statement is appropriate. Recognizing our role as trade organization is the measure by which we often determine whether to make a statement.

Chancellor Snyder summed up the discussion that there should not be a rush to publish a statement, but a thoughtful statement could be crafted before a confirmation or at some other time based upon the need to maintain processes that uphold the confidence in the Court and the need for the judicial independence. Chair Kamau and Reggie Shuford added that any statement should not be rushed. Shuford said that each Senator has an obligation to know the nominee and

understand what she will do as it relates to precedent and that rushing to confirm the nomination before the election was a critical flaw in the process. Riley Ross said that there would be value in getting a statement together before the process concludes to help guide the discussion to focus on the integrity of the Court. Chancellor Snyder indicated he would wait until after there is a nomination and once the schedule for hearings is released, he would draft an appropriate statement. If it is deemed necessary, a special meeting of the Board will be called.

A vote on the proposal was approved overwhelmingly. Arly Smith-Pearson abstained. Chancellor Snyder thanked the Board for a fulsome productive conversation.

Executive Director Hurdle presented his Executive Director's report. He highlighted the Treasurer's report. Through September 24, 2020, membership, CLE and LRIS are \$120,000 over their end of year budget, which goes directly to reducing the deficit from the revised budget. He believes an even bigger dent might be made by the end of the year. He did not believe there would be any hope of a paycheck protection loan, but late today, there was news of a slimmed down bill to be proposed, and if this does go through, it would be very beneficial to the Association. LRIS call and referral volume has a dramatic up-tick; it has not reached pre-pandemic levels, but has been significantly improved. He highlighted a few CLE programs taking place in the next few weeks.

Executive Director Hurdle also indicated that next week the Judicial Commission is kicking off. The budget process for 2021 has begun and the Finance Committee hopes to have a budget to the Board before the November Board meeting. The Election for the Bar Association has kicked off with the Nuts and Bolts meeting yesterday. There was a strong showing for the YLD, but more Board candidates are needed.

There is strong desire to work together with the Bar Executives of the collar county bar associations. There is a real partnership mentality emerging and they are developing ways to work together, because they have a lot in common and many of their members practice in Philadelphia. They will have bi-weekly calls moving forward.

Executive Director Hurdle shared photos of the progress of the Association offices. The project is on target for mid-to-late November completion, and will be state of the art, but they don't know if they will be back into the offices at that time. The staff are very excited for the updates to the space, which have not been updated in 25-30 years. The Association has a great working relationship with the City and the building and progress is going well. The Boardroom will be set up for hybrid, virtual and live meetings. It will be a great space to which the Board will return. The 10<sup>th</sup> floor will have all of the offices for staff, and the 11<sup>th</sup> floor will be the conference center. On October 12, the Bar Association will have a new Communications Director, Rachel Kipp. This is the first time we will have a Communications Director in two years. Executive Director Hurdle indicated how proud he is of the staff.

Chancellor Snyder provided his Chancellor's announcements. He indicated that the Fall Quarterly will be October 28, and they will be incorporating additional elements to the program based on suggestions from Committee and Section Chairs, and trying to make the beginning and end of the program have a more social aspect. The Association will honor Immediate Past Chancellor Shelli Fedullo. The Brennan award winner has been selected and will be presented at the event. Bar Stars will also be identified and awarded. Bar Stars are individuals identified by Section Chairs who have gone above and beyond in Section work. Chancellor Snyder is working

on identifying the keynote speaker. The Annual meeting will be held virtually on December 8 and Chancellor-elect McKenna will outline her plans for the year. The Sandra Day O'Connor award and the Ruth Bader Ginsberg Essay award will be presented as well as the Citizens' Bank Achievement Award. Both will be completed within an hour and a half.

In the first week of October, Chancellor Snyder and Cathy Carr will be testifying before the House Democratic Policy Committee on the right to counsel bill for individuals in landlord tenant matters on a statewide basis.

The Bar Election needs more candidates to run for the Board of Governors and Chancellor Snyder encouraged the Board to encourage their contacts to run for the Board. He praised the Board for their working together and thought Board members would be the best people to recruit future leaders.

The Bar Exam will still be administered using Exam Soft from October 5-7, 2020 despite problems with the software in other states and pre-tests. He reached out to David Fine, the Chair of the Board of Law Examiners, to once again raise the issue of temporary admission, but he indicated the decision has been made. The Chancellor indicated that he also continued to argue for the limited diploma privilege in accordance with the Board's resolution, and was told it was offered before, but will not be offered now.

Chancellor Snyder received a copy of an Executive Order from the White House, which discusses racial and sexual bias. All federal government agencies are prevented from presenting anti-discrimination training to their staff. He was very upset by the Order.

He also commended the Association, the staff and the Board on the financial efforts that were made and the fact that the Association is in much better shape than was anticipated. He was able to report to the NCBP about the Association's levels of engagement and others were surprised and jealous. He wished everyone a Shanah Tovah and an easy fast.

Chair Kamau made his announcements. He thanked the staff and the Chancellor. He indicated how proud he is of the Association and that we are going through so much. He praised the service the Association provides to the community and our members. He also indicated the poll watcher/poll worker training is Oct. 6 at 4:30 for two hours. Voting is just the beginning and we need to go beyond that.

The meeting was then adjourned at 5:43 pm.

Respectfully submitted,  
Jennifer S. Coatsworth  
Secretary

**Board of Governors Attendance  
September 24, 2020**

**Voting members present:**

Hon. A. Michael Snyder (Ret.)  
Lauren McKenna  
Wesley Payne  
Jennifer Coatsworth  
Marc Zucker  
Matthew Olesh  
Riley Ross  
Francesca Iacovangelo  
Alisha Rodriguez  
Michael van der Veen  
Dominique Ward  
Diane Penneys Edelman  
Lawrence Felzer

Kris Calalang  
Erin Lamb  
Craig Levin  
Andre Webb  
Hillary Ladov  
Randi Rubin  
Maureen Farrell  
Arly Smith-Pearson  
Reuben Asia  
James Tolerico  
Mark Mazzanti  
Rochelle Fedullo  
Reginald Shuford

**Absent:**

Kathleen Kirkpatrick  
Nicholas Kamau  
Benjamin Barnett  
Meghan Claiborne  
James Berardinelli  
Dino Privitera  
P. Douglas Sisk

Neelima Vanguri  
Wendi Barish  
Nipun Patel  
Michael Zanan  
Tom Innes  
Cheryl Upham  
Amber Racine

**Non-voting members present:**

Lawrence Beaser  
Leslie John

Abraham Reich  
Harvey Hurdle

**Absent:**

Butler Buchanan

**Invited guests present:**

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