

**Philadelphia Bar Association
Board of Governors Meeting
June 27, 2013**

The meeting was called to order at 4:06 p.m. by Chair Marc Zucker.

Upon consideration by the Board, the minutes of the May 23, 2013 Board meeting were unanimously approved.

Treasurer Wesley R. Payne IV presented the Financial Report for the period ending May 31, 2013. He reported that the Association is operating over budget by \$215,000. Dues are running under budget, but LRIS is doing well in exceeding revenue projections by \$183,000 and expenses are down \$39,000. There are two important reasons for why the Association is running over budget, including that sponsorships are going well and that the June Quarterly Meeting was a financial success. After consideration, the Treasurer's Financial Report was unanimously accepted by the Board.

Chancellor Kathleen Wilkinson reported that the June Quarterly event was a great success with almost 850 people in attendance. She also reported that she, along with Chancellor-Elect Bill Fedullo, Vice-Chancellor Al Dandridge and Immediate Past Chancellor Scott Cooper, attended World Bar Leaders Conference in Frankfurt, Germany where it was announced that Philadelphia will be the site of the next world conference in 2014.

Chancellor Wilkinson attended the following events: Jewish Law Day on June 3; Federal Bench Bar on June 7; Women's Bar Association of New York event on June 8 at the Latham Hotel, wherein she served as the keynote speaker; U.S. District Court Historical Society Dinner on June 11 and, in connection therewith, commended Rachel Branson on Judge Darnell Jones' portrait unveiling; YLD Diversity Scholarship Reception on June 13; Allegheny Bench Bar from June 20 to June 22, wherein the sixth woman president was installed; Bar Foundation Golf and Tennis Outing, which was also attended by Chancellor-Elect Fedullo; Friends of Farmworkers event on June 25, wherein Lou Rulli was commended for his service on its board of directors as was Chancellor Wilkinson, who also rolled off the board and at which Chancellor-Elect Fedullo, Vice Chancellor Dandridge and Former Chancellor Rudy Garcia were also present. Chancellor Wilkinson also attended a Justinian event on June 17 and a Philadelphia Association of Defense Counsel event, wherein Treasurer Payne was installed as its President. Earlier today, a successful Chancellor's Leadership Institute took place wherein Rachel Gallegos, Annette Ferraro and Rachel Branson were panelists. Later tonight, Chancellor Wilkinson will be attending a dinner celebrating the 170th anniversary of *The Legal Intelligencer*, wherein Larry Beaser and Vice Chancellor Dandridge will be among the honorees. Chancellor Wilkinson also acknowledged Kevin Mincey and Jamie Funt from the Criminal Law Section for their hard work on the City RFP issue. It was also announced that generational diversity will be the discussion topic of the next Chancellor Leadership Institute on July 29.

Debbie Gross from the Philadelphia Bar Foundation announced that two awards are given annually at the Andrew Hamilton Gala – a pro bono award to a law firm that

has contributed significantly to the community and an award for a public interest attorney who has provided exceptional service. Ms. Gross encouraged Board members to nominate candidates for the awards.

Chancellor Wilkinson presented on the formation of an Education Law Committee. She explained that no committee currently exists within the Association to address issues of education law. The proposed Co-Chairs of the Education Law Committee would be Mary Gay Scanlon from Ballard Spahr and Joshua Richards from Saul Ewing. Upon consideration by the Board, the motion to establish the Education Law Committee unanimously passed.

Director of Diversity Naomi McLaurin presented a Diversity Update. Ms. McLaurin reported that she is continuing to work with the Association's sections and committees on diversity initiatives, action plans and recommendations for speakers. The Probate and Trust Law Section has created its own diversity action plan and has been in contact with Ms. McLaurin to connect with the affinity bar associations. Externally, Ms. McLaurin has presented at TD Bank at its "TD University" in New Jersey on the topic of mentoring across differences. She presented to TD Bank's senior executives and will present to them again in September. She has attended diversity events of the Greater Philadelphia Chamber of Commerce, whose diversity committee is chaired by Nolan Atkinson. She also has plans to attend a meeting at the Federal Reserve Bank to discuss diversity metrics. Ms. McLaurin serves as the chair of the diversity committee for the National Association of Bar Executives. Ms. McLaurin has assisted the Palm Beach and Dallas bar associations, as well as the Allegheny Bar Association, which sought her assistance with obtaining information on generational diversity. She will also be speaking with the Montgomery Bar Association next month. She continues to work with law firms, to plan their minority attorney retreats and create chief diversity officer positions, as well as present on issues such as the business case for diversity. Ms. McLaurin has also served as a resource to the judiciary, most recently speaking on career options for Judge Ransom's judicial internship program, and helping Judge Ricardo Jackson on his book about black attorneys. Mary Platt thanked Ms. McLaurin for her service and commented that her experience on the Board has been improved with diversity issues being on the front burner.

Abraham C. Reich and Peter C. Buckley led a discussion on a matter pending before the Pennsylvania Supreme Court, Eric C. Coleman et al v. Duane Morris LLP and Kathleen M. Shay, Esquire, in connection with a request that the Association participate in an amicus brief. Mr. Reich disclosed that his firm represented the defendant in the underlying lawsuit and does not presently appear on behalf of the client. He reported that the Pennsylvania Bar Association's Professional Liability Committee and other committees have agreed to file an amicus brief in support of the petition filed by Mr. Reich's firm. The issue before the Supreme Court is: "Does the limitation on damages in a legal practice action sounding only in contract set forth in *Bailey v. Tucker*, 533 Pa. 237, 252, 621 A. 2d 108, 115 (1993) – which limited such damages to 'the amount actually paid for the services plus statutory interest' in a case involving an underlying criminal representation – apply where the underlying representation is a civil one?" Mr. Reich explained that this matter presented a compelling interest to the Philadelphia legal community and a fundamental issue of law such that the Association should consider

participating in an amicus brief. Messrs. Reich and Buckley then explained the different issues that arise whether a legal malpractice claim is characterized as a contract claim or a tort claim and that different statutes of limitation, defenses and damages would apply. A lively discussion ensued wherein the Board asked about impact on lawyers who represent clients in legal malpractice claims, on contingency fee arrangements or pro bono representations where there is no payment made and malpractice insurance, among other things. The amicus brief is due on July 29. A motion was made that the matter be presented to the State Civil Committee for further evaluation and that a committee be formed to evaluate the proposed amicus brief and to determine whether to join in the Pennsylvania Bar Association's position. Upon consideration by the Board, the motion was unanimously passed.

Temple Beasley School of Law Director of Trial Advocacy Sara Jacobson and Criminal Justice Section Chair Jamie Funt presented a Resolution In Support Of SB 979, Legislation That Establishes a Pennsylvania Center For Effective Indigent Defense Legal Representation. Mr. Funt explained the history of the Gideon v. Wainwright decision and the fact that Pennsylvania is the only state that does not provide statewide funding for indigent defense. Senate Bill No. 979 would create and initially fund a Center for Effective Indigent Defense Legal Representation, primarily charged with providing statewide training for public defenders and other criminal defense attorneys appointed to represent indigent defendants. Mr. Funt explained that the bill is in its early stages, but that there could be more momentum for it if support could be had from the Association. Upon consideration by the Board, the resolution unanimously passed.

Executive Director Ken Shear reported on Philadelphia Bar Association membership. Treasurer Payne began the discussion by presenting the numbers of dues paying members for the years of 2011 and 2012, with up-to-date numbers for 2013. About two out of three admitted attorneys in the Greater Philadelphia area are members of this Association. Honing in on the number of attorneys who have been admitted to practice for ten or more years, Executive Director Shear compared the numbers between 2011 and 2012, which showed a drop of 91 members, or a difference of \$34,853 in dues revenue. He explained that this is significant impact. The formation of the Law Firm Management Committee has stimulated interest in the Association again. There may be some impact with the rollout of the prescription drug program. Going into future years, there will need to be more creative thinking in terms of membership. Chancellor Wilkinson explained that the Association is exploring new opportunities and Chancellor-Elect Fedullo explained that other bar associations are experiencing the same trend. Additional resources will be devoted to exploring the membership issue, including the possible creation of a Board committee that meets somewhat frequently.

Women Against Abuse Legal Director Molly Callahan provided a status report on the Pennsylvania Superior Court's decision in Ferko-Fox v. Fox, Case No. 2257 MDA 2011 (Pa. Superior Ct., April 17, 2013) and its impact on parties in emergency Protection From Abuse Proceedings. Ms. Callahan reported that the Superior Court decision changing emergency PFA proceedings is creating problems for petitioners and for defendants in the system. Before the decision was handed down, in Philadelphia and other counties, a petitioner would speak with someone at the filing unit and that person would type up the allegation then take the pleadings to a sitting judge who would decide

whether a hearing or a temporary order would be granted. An evidentiary hearing with the parties would then be scheduled within 10 days. The Ferko case holds that absent an exigent circumstance that prevents a petitioner's appearance, an ex parte hearing must be convened before entering a temporary PFA order. Ms. Callahan explained that Women Against Abuse considered this "window dressing due process" and that the real problem in PFA court is the lengthy schedule in trial court. Unfortunately, in Philadelphia and across the state, hearings are not taking place within 10 days because the court does not have the capacity to do so. With the requirement now that an ex parte hearing must take place with the parties, the process will take much longer. If separate hearings are required and the defendant needs to obtain a transcript of the ex parte hearing with petitioner before he can defend his case, the process could take much longer than 10 days to complete. Women Against Abuse intends to file a King's Bench Petition with the Superior Court requiring it to review the due process issue. Women Against Abuse is advocating the position that a process that is speedy helps everyone involved; that if the parties are ready to proceed within ten days, they should; and that only continuances of one week's duration should be permitted. Consensus has not yet been reached with the Family Law Section, but Ms. Callahan did not want to delay in informing the Board of this matter in the event it is asked to participate in an amicus brief.

Chancellor Wilkinson provided an update on House Bill No. 436 – Lawyers as mandatory reporters of suspected child abuse. She reported that she met with the representative who is a proponent of this legislation. She explained that the Pennsylvania Bar Association opposed the bill but that this Association chose not to go that route. The bill passed with amendments, but the attorney-client privilege issues previously discussed continue to raise concerns. The amendments made have not improved the bill as to the issue of protecting confidential communications. Chancellor Wilkinson will continue to monitor the situation and will set up a meeting with Senator Bob Mensch to discuss.

There being no further business, the meeting was adjourned at 5:49 p.m.

Respectfully submitted,
Sophia Lee
Secretary

**Board of Governors
Attendance
June 27, 2013**

Voting Members:

Present:

Kathleen D. Wilkinson
William P. Fedullo
Albert Dandridge
Sophia Lee
Jacqueline Segal
Wesley Payne
Mary Platt
Marc Zucker
Eric Weitz
John Encarnacion
Jennifer Coatsworth

Ourania Papademetriou
Rachel Gallegos
Natalie Klyashtorny
Emily Marks
Dawn Tancredi
Aneesh Mehta
Gordon Wase
Sara Jacobson
Richard Vanderslice
Christian Petrucci

Absent:

Nikki Johnson-Huston
Brian Chacker
Scott Reid
Gina Rubel
Rachel Branson
James Rocco
Kay Yu
Rachel Kopp
Brad Shuttleworth

John Savoth
Brandi Brice
Edward Beitz
Barbara Sicalides
Kevin Mincey
Meredith Brennan
Mark Cohen
Howard Goldberg

Non-Voting Members:

Present:

Michael Hayes
Rudolph Garcia
Kenneth Shear
Louis Rulli

Judy Stouffer
Abraham Reich
Sayde Ladov
Deborah Gross

Absent:

Lawrence Beaser
Justine Gudenas
Heather Austin
Hilda Thompson

Richard Alonso
Cheryl Disch
A. Michael Pratt