

**Philadelphia Bar Association
Board of Governors Meeting
March 31, 2011**

The meeting was called to order at 4:07 p.m. by Chair Regina Foley.

Upon consideration by the Board, the minutes of the February 24, 2011 board meeting were unanimously approved.

Chair Foley recognized Certified Public Accountant David Faw to present the independent auditor's report for the Association for the year ending as of December 31, 2010. Mr. Faw prefaced the results of his audit with remarks highlighting the accomplishments of the Association. Given where the economy has been, Mr. Faw found it noteworthy that the last two years have been better than break-even and that the Association has been managing its affairs well, resulting in a healthy bottom line. Mr. Faw also noted that he only audits tax exempt organizations. Mr. Faw reported that both before the start of his field work and after the draft audit was completed, he had excellent meetings and lively discussions with the Association's staff, which allowed him to review all of the required issues in a timely manner. He also reported that he experienced the utmost professionalism from Executive Director Ken Shear, Chief Financial Officer Susan Knight and the Association staff and that the Audit Committee was responsive on all counts. Mr. Faw opined in his auditor's report that the financial statements present fairly, in all material respects, the financial position of the Association as of December 31, 2010 and that the changes in its net assets and its cash flows for the year then ended are in conformity with accounting principles generally accepted in the United States. The independent auditor's report was unanimously accepted by the Board.

Chancellor Rudy Garcia began his remarks by noting that another busy month has passed. Chancellor Garcia announced that, following discussion with Judge Lisa Rau, the Association will partner with the Philadelphia Court of Common Pleas on its judicial fellowship program. The program seeks to place unemployed law school graduates in unpaid clerkship-type positions in order to provide the graduates with additional credentials and experience while they look for permanent legal employment. Chancellor Garcia noted that the Association is happy to support the program's efforts.

Chancellor Garcia announced his nominees to the Pennsylvania Bar Association House of Delegates. He nominated Sayde Ladov as Zone 1 Governor. He also nominated the following 22 Zone 1 delegates, as follows: Danielle Banks, Marc L. Bogutz, Jane L. Dalton, A. Harold Datz, William P. Fedullo, Regina M. Foley, Nancy H. Fullam, Honorable Marlene F. Lachman, Honorable Anne E. Lazarus, Henri P. Marcial, Lynn A. Marks, George E. Martin, III, Wesley R. Payne, IV, Joseph A. Prim Jr., Abraham C. Reich, James A. Rocco, III, John E. Savoth, Richard S. Seidel, Joseph A. Sullivan, Michael L. Temin, James A. Wells, and Kathleen D. Wilkinson. Chancellor Garcia did not self-appoint, but will attend this year's meetings as the local bar representative.

Chancellor Garcia summarized his speaking engagements and activities since the last board meeting, including serving as the keynote speaker at Drexel Law School's diversity week programming sponsored by the affinity student bar associations and speaking before the Pennsylvania Lawyer's Fund and at the PNC Flower Show. Chancellor Garcia remarked that he was proud of everyone for how well the last Quarterly Meeting went and commented that Justice Sonia Sotomayor was both thrilled and touched. Chancellor Garcia reported that he sent a letter to the Justice quoting comments he received from the Quarterly Meeting attendees. Since the last board meeting, Chancellor Garcia participated as a judge in the mock trial competition, spoke at the Pennsylvania Bar Association's Minority Attorney Conference, introduced Governor Ed Rendell at the Philadelphia VIP 30th Anniversary Gala, spoke at the Hispanic Bar Association event honoring Pedro Ramos, spoke at the Association's lecture series sponsored by the Government and Public Service Lawyers Committee, wherein U.S. Attorney of the Eastern District of Pennsylvania Zane D. Memeger, Pennsylvania Inspector General Kenya Mann Faulkner and Chief Federal Defender Leigh M. Skipper also presented, and was honored at Temple Law Day.

Chancellor Garcia announced that March 31, 2011 was the official launch of Fastcase as a membership benefit for all solo and law firms with 100% membership with the Association. He also announced that another member benefit, Bar Classifieds, which permits Association members to post classifieds for 30 days for \$39.00, will be launched on April 4.

John Savoth remarked that he was proud to be an attendee at the Quarterly Meeting and praised the Chancellor for his efforts. Scott Sigman noted that, at Temple Law Day, Temple Law School Dean JoAnne Epps provided glowing remarks about Chancellor Garcia.

Finally, Chancellor Garcia reported that, at the last Quarterly Meeting, the Association's membership adopted the bylaws previously approved by the Board for the Long-Range Advisory Council. Chancellor Garcia moved for the following appointments to the Council, including Frank Devine as Chair of the Council in 2011 and to a three-year term on the Council; Sayde Ladov and Abe Reich, each to a three-year term on the Council; Alan Feldman, Bruce Franzel and Scott Reid, each to a two-year term on the Council; and Gabe Bevilacqua, Andre Dennis and Molly Peckman, each to a one-year term on the Council. The appointments were unanimously approved by the Board.

Assistant Treasurer Wesley Payne presented the Treasurer's Report for the period ending February 28, 2011. Assistant Treasurer Payne explained that, as of the period then ended, the Association overall is \$45,000 behind budget. He reported that the Association is \$50,000 behind budget for dues, probably due to late payments, that the Lawyer Referral and Information Service is \$14,000 behind budget, and that expenses are under control. He assured that there were no emergencies, but that the situation must be monitored. Executive Director Shear agreed and noted that a couple of law firms have called to ask about 100% membership requirements in connection with the Fastcase

membership benefit. The Membership Task Force, co-chaired by Assistant Secretary Jacqueline Segal and Matthew Perks, is in full force and continues to analyze membership concerns. Vice-Chancellor Kathleen Wilkinson noted that she has started conversations with the Dean of Villanova Law School to pay membership dues for all of its law students. Executive Director Shear noted that, if successful, the Association would have full membership from both Drexel and Villanova Law Schools. After consideration, the Board unanimously accepted the Treasurer's Report.

Chair Foley recognized State Civil Litigation Section Co-Chair Robert Szostak to present a resolution on joint and several liability. Pending before the General Assembly of the Commonwealth of Pennsylvania are Senate Bill No. 2 ("S.B. 2"), introduced by Senator Jake Corman, and Senate Bill No. 500 ("S.B. 500"), introduced by Senator Stewart J. Greenleaf, both proposing to amend Title 42 of the Pennsylvania Consolidated Statutes to change the law relating to joint and several liability that has been followed in the Commonwealth for over 100 years. S.B. 2 eliminates joint and several liability, except in five instances, including where a defendant has been held liable for not less than 60% of the total liability apportioned to all parties. S.B. 500 seeks to abolish joint liability as to any defendant whose percentage share of liability is less than the percentage share attributed to the plaintiff such that the plaintiff may not recover damages from a defendant in excess of that defendant's percentage share. The resolution proposed seeks to oppose S.B. 2, which could result in scenarios where, because of the large number of defendants in a particular case, a plaintiff would be overburdened in establishing at least 60% total liability as to a single defendant. In contrast, S.B. 500 is proposed in the spirit of compromise and is generally seen as a fairness bill.

Mr. Szostak reported that the State Civil Litigation Section unanimously adopted the proposed resolution at its last meeting, at which over 100 attorneys were present, including both plaintiff and defense attorneys. A week prior, the Montgomery Bar Association also unanimously adopted a similar resolution, with the additional statement that, while it did not support any change to the law on joint and several liability in the first instance, if a change is inevitable, then the preference is to support S.B. 500. A discussion ensued among the Board concerning the Montgomery Bar Association's additional statement and whether that language would be appropriate to include in the Association's resolution. Further discussion took place in support of S.B. 500 for reasons such as the Association's role in representing its members and communities and the general fairness of the language to both sides of the aisle. Following discussion regarding a few technical amendments to the resolution as proposed by Counsel to the Association Larry Beaser, the resolution was unanimously adopted by the Board.

Chair Foley recognized ABA Delegate Abe Reich and Superior Court Judge Anne Lazarus of the State Judicial Ethics Committee to present on the issues related to an anticipated resolution of the American Bar Association regarding judicial disqualification and recusal. At the outset, Mr. Reich clarified that he was asking the Board for consideration of the issues, rather than action, and that he was providing such information at the request of Chancellor Garcia. Mr. Reich noted that the Association is well-recognized by the ABA as having a national role and, in that regard, posed the question

of whether the Association should be doing more in the arena of judicial disqualification and recusal. ABA Resolution 115 is a proposed resolution of the Standing Committee on Judicial Independence asking the House of Delegates to adopt certain disclosure processes for judges, lawyers and parties regarding campaign contributions to determine whether a judge should be disqualified or whether recusal is appropriate. The resolution is directed to state courts with an elective process for judges.

Mr. Reich then raised the issue of recusal with respect to the United States Supreme Court Justices and noted that the justices individually determine whether recusal is appropriate for him or herself, and that such a process does not provide for accountability or transparency. To that point, Mr. Reich presented a February 23, 2011 letter directed to U.S. Senators Patrick Leahy and Charles Grassley and U.S. Representatives Lamar Smith and John Conyers, Jr., signed by 105 law professors, outlining the issues in connection with the fact that the Justices of the U.S. Supreme Court have not adopted and are not subject to a comprehensive code of judicial ethics. Mr. Reich also presented House of Representative Bill No. 862 ("H.R. 862"), introduced by U.S. Representative Christopher Murphy, which seeks to apply to the justices of the Supreme Court the Code of Conduct for United States Judges and to establish certain procedures with respect to recusal of justices. Mr. Reich noted that the substance of H.R. 862 is quite good, but believes that the establishment of procedures by congressional legislation is not the appropriate vehicle for change, particularly as the issue of separation of powers is considered. To the extent that Congress dictates to the judiciary, the process is misguided and Mr. Reich notes that the Association, when called upon, should oppose the proposed legislation on the grounds that it infringes on the separation of powers. The more appropriate vehicle for developing a code of conduct would be through the Conference on Judicial Rule-Making. While there is no pending request for action, Mr. Reich suggested that a nationally-recognized bar association, such as ours, should lead the issue in the ABA House of Delegates and take action by April, in time to garner support for its position by the ABA summer meeting.

A discussion on these issues ensued, wherein members of the Cabinet and Board raised questions regarding next steps and the nature of an appropriate resolution of the Association, the fact that the Conference on Judicial Rule-Making does not apply to the U.S. Supreme Court, and that the proposed legislation, even if opposed by the Association, could be leveraged as a catalyst for change. It was generally agreed that Mr. Reich and Andre Dennis will prepare a proposed resolution for presentation and approval by the Board at a future meeting.

Superior Court Judge Anne Lazarus announced that she has been asked by Pennsylvania Supreme Court Chief Justice Ronald Castille to chair an ad hoc committee created to review judicial ethics and the current ABA Model Code and to make recommended revisions to the Pennsylvania Code of Judicial Conduct. Judge Lazarus reported that in response to a request for an Association liaison, Chancellor Garcia and Executive Director Shear nominated Paul Kazaras. Judge Lazarus reported that she anticipates that 18 months will be needed to conduct a full review and that the last code change took place in 1990. She also discussed the difference between recusal and

disqualification, as well as rules in other jurisdictions relating to gifts and political contributions. She further noted that any code changes must apply to all counties in the Commonwealth. Judge Lazarus thanked the Association for its nomination of Paul Kazaras, and reported that the Chief Justice is fully aware of the attention and scrutiny relating to these issues. Judge Lazarus noted that the ad hoc committee will be comprised of law school deans, practitioners, judges, Democrats and Republicans, women and men, and people of diverse backgrounds. Finally, Judge Lazarus offered to provide periodic updates, if requested by the Association.

Chair Foley made her announcements. She reported that Brad Shuttleworth, Chair of the Criminal Justice Section, confirmed that the Section accepted the Board's friendly amendment from the last board meeting providing that the Section's bylaws will not be inconsistent with the Association's Bylaws. She also reported that the Young Lawyers Division will host its luncheon meeting on April 14 and that Law Week will take place from May 2 to May 6. The YLD's Casino Night will take place on May 14. Chair Foley also announced that the Chancellor's Forum on April 21 will feature Mayor Michael Nutter, who will present his 2012 budget and a proposed 2012-2016 budget. Kenneth R. Feinberg, President Obama's compensation chief and administrator of the federal 9/11 fund, will be the featured speaker at the Chancellor's Forum on April 28.

Chair Foley reported on the survey results of the Bar Leaders Retreat and the Bar Leaders Institute. 63% of the Bar Leaders Retreat attendees and 65% of the Bar Leaders Institute attendees responded to the survey request. Overall, the attendees were pleased, enjoyed the programs and the Borgata. The majority responded that the facility, moderators and panelists were very good to excellent. There were no poor responses.

Chair Foley then invited the Board to report on New Business. The Commission on Judicial Selection and Retention is expected to release its first report on Monday, April 4. Scott Sigman introduced Judge Annette Rizzo's law clerk, Beatrice Raccanello, who is a law school graduate from Italy. He also reported that the Temple American Inn of Court just returned from its trip to Italy, where they were received as guests of Parliament and at the Vatican. Judges Teresa Sarmina, Faith Angell, Cynthia Rufe and Annette Rizzo participated.

There being no further business, the meeting was adjourned at 5:34 p.m.

Respectfully submitted,
Sophia Lee
Secretary

Board of Governors
Attendance
March 31, 2011

Present:

Rudolph Garcia
Sophia Lee
Regina Foley
Richard Harris
Pedro Ramos
H. Marc Tepper
Nikki Johnson-Huston
Ourania Papademetriou
A. Michael Snyder

John Savoth
Jacqueline Segal
Brandi Brice
Michael Shaffer
Kimberly Ruch-Alegant
Brian Chacker
Marc Zucker
Cheryl Gaston

Kathleen Wilkinson
Wesley Payne
William Fedullo
Sean Sullivan
Scott Sigman
John Encarnacion
Judith Stein
George Nagle

Absent:

Joseph Prim
Stacy Tees
Scott Cooper
Melanie Taylor
Julia Swain

Danielle Banks
Scott Reid
Richard Seidel
Sandra Jeskie
David Prewitt

Jeffrey Campolongo
Gina Rubel
Carolyn Chopko
Thomas Fitzpatrick