



ILLINOIS STATE
BAR ASSOCIATION

Board of Governors
March 23, 2018

Action Item 1
Minutes



Board of Governors Meeting
Winnebago County Bar Association
Rockford, Illinois
January 26, 2018

MINUTES

Board Members Present: Hartigan, McCluskey, Sosin, Orsey, Cornelius, Beisinger, Browder, Davis, Devine, Durkin, Gaertner, Fruehling, George Stewart, Johnson, Kasserman, Krolikowska, LaRose, Rochford, Wawrzynek, White, and Williams.

Board Members Absent: Duignan, Gill, Menaker, O'Brien, Weiler, and Wright.

Others Present: Draper, Chair of the Assembly Agenda and Program Committee.

Staff Present: Craghead, Executive Director, Archer, Director of Finance, Covington, Director of Legislative Affairs, Northrup, General Counsel, and Weaver, Assistant to the Executive Director.

President Hartigan called the meeting to order and presided throughout.

1. Minutes

- A. Motion duly made, seconded and carried to approve the Minutes of the October 20, 2017 meeting.
- B. Motion duly made, seconded and carried to approve the Minutes of the November 16, 2017 special meeting.
- C. Motion duly made, seconded, and carried to go into Executive Session to consider a number of matters.

[N.B. Executive Session minutes approved, additional matters discussed, and motion made, seconded, and approved to return to regular session.]

3. President's Report

President Hartigan welcomed the Board members.

President Hartigan referenced a number of his activities since the last Board meeting including his attendance with Justice Garman at the dedication of the new Vermillion County courthouse, speaking engagements at both Sangamon County and Morgan County bar events, and the good progress of several ISBA Committees on gun violence, succession and transition planning, futures issues, and membership

issues. President Hartigan further noted his participation at a number of substantive CLE programs and a new lawyers reception at the CRO promoting ISBA benefits and services. He also referenced upcoming speaking engagements at the Northwestern Suburban Bar Association, the Madison/St. Clair joint bar association dinner, and his receipt of St. Ignatius High School's highest alumni award. He made special mention of an upcoming Illinois Bar Foundation reception in honor of ISBA Executive Director Bob Craghead, and ISBA Director of CLE Jeanne Heaton, both of whom were serving as the Presidents' of national bar related associations.

6. Scope and Correlation

President Hartigan called upon Second Vice-President Sosin to address the Board.

Second Vice-President Sosin addressed three action items. The first involved a joint project of the Illinois Judges Association, the Illinois Judges Foundation, the Illinois State Historical Society, and the Jerome Mirza Foundation to install a framed, 30 x 40, pre-presidential photograph of Abraham Lincoln in every Illinois county courthouse. Those organizations were requesting funding from the ISBA in the total amount of \$12,600, \$6,300 in the current fiscal year and \$6,300 in FY 2018/2019.

After discussion, motion made, seconded, and carried to adopt the Scope Committee's recommendation that the Board allocate \$12,600 (\$6,300 currently and \$6,300 in FY 2018/2019) for the Lincoln portrait project and to approach the Illinois Bar Foundation requesting that it participate over the two fiscal years at the \$6,300 level (resulting in an equal share being borne by the ISBA and IBF).

Second Vice-President Sosin then addressed the second action item, a proposal from the Trusts and Estates Section Council for the ISBA to support a change to an existing exception under the statute of repose applicable only to estate lawyers. Third Vice-President Sosin reported that the current exception is a significant impediment to estate lawyers retiring, selling a practice, or merging a practice.

After discussion, motion made, seconded, and carried to adopt the Scope Committee's recommendation that the Board establish a special committee charged with developing a proposed legislative solution to the issue for consideration at the October, 2018 Board meeting, and that the special committee be appointed jointly by the current President and President Elect to include representatives of the Trusts and Estates Section, the Civil Practice and Procedure Section, the Tort Law Section, and such other members as deemed appropriate.

Second Vice-President Sosin then addressed the third action item, House Bill 4113, which would eliminate the "best interest of the child" standard of determining parenting time in favor of a presumption of equal time between the parents. It would also require the application of a clear and convincing evidentiary standard when determining when children might be at risk of serious endangerment. Third Vice-President Sosin reported that the Family Law Section Council is strongly opposed to this legislation as being fundamentally flawed and unsound. He further described a resolution (provided) drafted by the Section Council in opposition to the legislation.

After discussion, motion made, seconded, and carried to approve the unanimous recommendation of the Scope Committee to adopt the resolution prepared by the Family Law Section Council in opposition to HB 4113.

Second Vice-President Sosin then updated the Board with respect to several other non-action Scope Committee matters including: a Bench and Bar Section Council proposal to establish a judicial intermediary program, e-filing, and a concern raised by the Intellectual Property Section Council.

10. Professional Ethics Opinions

President Hartigan called upon General Counsel Northrup to discuss two recommended ethics opinions.

General Counsel Northrup provided background information on the Professional Conduct Committee's recommended two ethics opinions: 18-01 (use of web tracking software); and 18-02 (conflicts and screening).

After discussion, motion made, seconded, and carried to approve the two opinions with a request that the Professional Conduct Committee consider the conflict between the Illinois and ABA Model Rules on screening and, if appropriate, make an appropriate recommendation to the Board.

11. Elections

President Hartigan directed the attention of the Board to several vacancies in ABA Delegate positions, as well as those individuals who had self-nominated themselves for the positions, and described the procedure for the Board to elect those Delegates.

A. Vacancy – “At-Large” ABA Delegate – Outside Cook County

To fill a vacancy in the “At-Large” ABA Delegate – Outside Cook County for a term that begins immediately and concludes at the end of the ISBA Annual meeting in June 2019, and pursuant to prior published notice, five individuals self-nominated themselves: Michael Hartigan, Dominic Kujawa, Mary K. O'Brien, Mathew Pfeiffer, and David Schaffer.

After secret ballot, Michael Hartigan was declared elected.

B. Vacancy – Under 35 ABA Delegate Cook County

To fill a vacancy in the Under 35 ABA Delegate Cook County for a term that begins in June, 2018 and concludes at the end of the ISBA Annual meeting in June 2020, and pursuant to prior published notice, two individuals self-nominated themselves: John Brennock; and Bianca Brown.

After secret ballot, Bianca Brown was declared elected.

C. Vacancy – Under 35 ABA Delegate Outside Cook County

President Hartigan reported that no self-nominations were made for this vacancy for a term that begins in June, 2018 and concludes at the end of the ISBA Annual meeting in June 2020. After discussion, the vacancy will be made known to the Young Lawyer Division with a request for self-nominations. Pending such nominations, the vacancy will be filled by the Board at its next meeting.

President Hartigan called upon Kim Weaver, Assistant to the Executive Director, to provide the Board with an update of those individuals filing for elective ISBA office.

28. Civil Practice and Procedure Section Council

Upon the unexpected inability of Matt Pfeiffer, Chair of the Civil Practice section council, to appear, President Hartigan addressed the Board and provided information on the Civil Practice and Procedure Section Council's activities.

President Hartigan noted the Section Council's continued interest to treat Rule 23 orders as persuasive authority, but also the Illinois Supreme Court's historical and continued reluctance to do so. President Hartigan also described the Section Council's ongoing examination of the Allerton Conference, a signature program of the Section Council. He noted a number of Section Council concerns with the program including attendance, cost, location, and relevance. The Board then discussed the Conference including: alternative venues, and the possibility of awarding grants or sponsorships for younger lawyers to attend.

111. Special Committee on Succession and Transition Planning

President Hartigan called upon John Nisivaco, member of the Special Committee on Succession and Transition Planning, to update the Board on its activities.

Committee member Nisivaco described the purpose of the Committee, primarily to help lawyers and their loved ones with unexpected life events that might impact clients. He noted that the Committee has consolidated and collected a variety of ISBA resources and put them on the Committee's webpage. He further noted that this information has been publicized through an Illinois Bar Journal article, a post on the Illinois Lawyer Now, and the Practice HQ pages. He also indicated that several Committee members have committed to preparing ISBA "Quick-Takes" on a variety of topics, intending to highlight the Committee's materials. He also described a draft Supreme Court Rule that would require lawyers to identify a "designated representative" and vest that person (a lawyer) with limited authority to come in and notify a lawyer's clients and tribunals in the event of an unplanned event, secure the office, pay staff, and take other interim appropriate actions. He noted that once this rule is finalized within the Committee, it will be sent out to other sections and committees for comment, and then it will come back to the Board and Assembly before, if approved, being sent on to the Court. Finally, Committee member Nisivaco mentioned the next focus of the Committee to help lawyers transition into private practice.

112. Special Committee on Gun Violence

President Hartigan addressed the Board and provided an update of the activities of the Special Committee. He noted that other bars, notably the American Bar Association and the Chicago Bar Association, have programs in place addressing gun violence, but that it was important for the ISBA to take a statewide perspective on the issue. He detailed a program developed by the Special Committee scheduled for March 14, 2018 in Springfield bringing together experts, judges, and social service agencies to discuss gun violence. President Hartigan expressed his goal that a report from the program can be shared with other stakeholders and that it will contribute to this important issue.

136. Illinois Supreme Court – Bail Bonds

President Hartigan addressed the Board on the issue of bail bond reform. He noted that the ISBA had been approached by a coalition of civil rights lawyers to become involved in this evolving issue. President Hartigan reported that Cook County Chief Judge Timothy Evans had recently instituted some bail bond reforms, and that the Illinois Supreme Court had formed a special committee to consider the issue.

President Hartigan called upon Board member Ava George Stewart to provide some additional background on bail bonds. She noted that in the past, bail bonds were often used by clients to pay for lawyer services, but that those avenues of payment were being impacted by reform efforts. She also noted that this was having an unintended consequence of persons being less able to obtain legal representation.

President Hartigan also called upon Executive Director Craghead, who noted that the bail bond issue had been referred to the ISBA's Criminal Law and Bench & Bar Section Councils, the Corrections and Sentencing Committee, and an ad hoc committee to coordinate a potential ISBA response.

Information Agenda

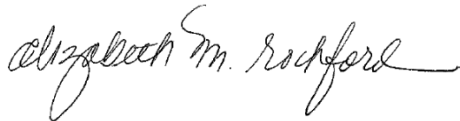
2. Calendar

President Hartigan called upon Third Vice-President Orsey to provide some information about the upcoming March Board meeting in Collinsville.

Third Vice-President Orsey addressed the Board and provided background information on the March Board meeting in Collinsville, scheduled in conjunction with the annual Madison/St. Clair Bar Associations joint meeting.

There being no other further business, motion made, seconded, and carried to adjourn the meeting.

Respectfully submitted,

A handwritten signature in cursive script, reading "Elizabeth M. Rochford". The signature is written in dark ink and is positioned above the printed name of the signatory.

Elizabeth Rochford, Secretary