



TCDLA Board of Directors Meeting Minutes

Saturday, March 8, 2014
Crowne Plaza Hotel
Houston, Texas

Introduction

Bobby Mims, President calls the meeting to order at 10:05 am. A quorum was present. Bobby recognized all the past presidents, guests and new board members.

Roll Call:

Officers

P Bobby Mims, President
P Emmett Harris, Pres-Elect
P Sam Bassett, 1st VP
P John Convery, 2nd VP
P David Moore, Treasurer
P Mark Snodgrass, Secretary
P Michael Gross, *Voice*
Editor

Directors

A John Ackerman
P Susan Anderson
P Marjorie Bachman
E Heather Barbieri
E Rick Berry
A Fred C. Brigman, III
P F. Clinton Broden
P Jaime Carrillo
E Jason Cassel
E Harold Danford
P Nicole DeBorde
A Emily Detoto Munoz
P Robert Fickman
P Steven Gordon
P* Deandra Grant

E Melissa Hannah
P Theodore Hargrove,
III
A Jo Ann Jacinto
P Laurie Key
P Jeanette Kinard
P Adam Kobs
P* Michael McDougal
P Patrick Metze
E David O'Neil
P Anthony Odiorne
P Shawn Paschall
E Stephanie Patten
E Oscar Pena
A Bruce Ponder
E Carole Powell
P Bennie Ray
E Ray Rodriguez, Jr.
P Sarah Roland
P John Hunter Smith
P Clay Steadman
A George Taylor
E Gary Alan Udashen
E William Vitz
P Charles Coby Waddill
A James Whalen

P Jani Wood

Associate Directors

P Robert Barrera
P Curtis Barton
P Donald Flanary, III
P Steve Keathley
A Bradley Lollar
A Louis Lopez
P Hiram McBeth
A Michael McCrum
P George Milner, III
P Angela Moore
P Simon Purnell
P Jeremy Rosenthal
P David Ryan
A Edward Stapleton, III
P John Stickels
E Oscar Vega

Key: P = Present; *via phone, E = Excused Absence; A = Unexcused Absence

Past Presidents in Attendance: David Botsford, William Harris, Bob Hinton, Edward Mallett, Stanley Schneider, Gary Trichter

Guests: Chris Abel, Roberto Balli, Bobby Barrera, Mimi Coffey, Tyler Flood, Cassie Gotro, Bill Habbern, Cynthia Hampton, Keith Hampton, Troy McKinney*, Doug Murphy, Bennie Ray, Frank Sellers*, Monique Sparks, Courtney Stamper, Mark Thiessen*

Staff: Patricia Cummings, Joseph Martinez, Melissa Schank, Rick Wardroup, Mari Flores

President Announcements: Bobby welcomed Patricia Cummings as our new General Counsel and Governmental Relations Director – board applauds and welcomes her. Patricia addressed the board and stated she was honored and privileged to serve the board. Patricia encourages members to contact her as needed.

Recognitions, *Bobby Mims*

Bobby Mims recognized Stanley Schneider, Buck Files and Cassie Gotro for their support and hard work on the Supreme Court regarding restitution for child porn victims. The board gave applause and a standing ovation.

Congratulations were given to Coby Waddill for his election as Judge in Denton County Court at Law. He is expected to take office in June 2014.

The board applauded and gave a standing ovation to Jani Wood for her courageous efforts to run for the Court of Criminal Appeals.

Applause was also given to Susan Anderson for running for Judge in Dallas County.

Don Hase was also recognized for his efforts in his judicial race.

Clara Hernandez has retired from the El Paso Public Defender's office. Jaime Gandara has been promoted to the position and TCDLA congratulates him.

Congratulations were also given to Melissa Hannah for her recent addition of a new family member.

Heather Barbieri was praised for her not guilty verdict.

NCDD and TCDLA – MSE:

Bobby reported the National College for DUI Defense has chosen not to renew the contract for joint production of the MSE program after nine years. TCDLA thanks NCDD for their support of seminar. The executive committee will not move forward.

MOTION: Approve minutes from January 11, 2014 TCDLA Board Meeting in Lubbock. Motion made by Michael Gross, seconded by Sarah Roland – motion carries.

Recognition of Fallen Heroes and Heroines, *Bobby Mims*

Recognition for fallen members: John Munier from Houston by Stanley Schneider and Nicole DeBorde; Lawrence Wines from St. Peters Missouri by Joseph Martinez. A moment of silence was given.

Budget Committee Report, *David Moore*

Archie Montemayor reports that he has completed the audit and states audit is clean and the finances look pretty favorable. A draft has been circulated and will not have changes. Archie thanked management for providing information in a timely manner.

MOTION: Motion to approve the FY 2013 Audit report presented by Archie Montemayor made by David Moore, seconded by John Convery – motion carries.

David reported the committee is looking at having a potential dues increase. TCDLA is still pending funding from the CCA regarding the new General Counsel and Governmental Relations Director position.

Executive Director’s Report, *Joseph Martinez*

Joseph recognized TCDLA staff anniversaries: Cindy Escobar for celebrating one year; Mari Flores for two years and her professionalism and work with the court of criminal appeals; Melissa Schank for nine years; Rick Wardroup for three years and as an individual of tremendous integrity and assisting TCDLA with everything that is needed for the fight for Justice, Joseph is honored to work with him.

Joseph also welcomed Patricia Cummings to TCDLA and looks forward to working with her for the coming years.

Publication Report, *Rick Wardroup*

Rick is looking at having books available on subscription renewal for members to automatically receive updates. Susan Anderson is almost complete with Board Specialization Certification Manual. Next legislature some publications will be changed from a horn book to more of trial manual.

Capital Assistance, *Rick Wardroup*

TCDLA completed the federally funded, CCLI seminar in Houston during February 5-7, 2014. The “bring-your-own-case” program was a success, with lawyers and experts from around the country consulting with 16 Texas capital litigation teams. The Capital Murder/Mental Health seminar ran in conjunction with CCLI on Thursday and Friday of the seminar week, giving litigators involved or interested in capital defense, but not currently working on a capital case, the opportunity to receive the training necessary to stay current.

Membership, *Melissa Schank*

Membership numbers have maintained 3,200 for the past three years. New member retention is at 50%. Calls were made to November, December and January non-renewals. We received many renewals via phone call. Board members are encouraged to contact those on the non-renewal monthly lists to have them rejoin. Board members also have three board comp memberships to distribute annually. Contact the TCDLA office if you are unsure if you have any remaining.

Seminars, *Melissa Schank*

Plan to attend Rusty Duncan, June 12-14, 2014. Posters were distributed for board members to hang in their local courthouses or anywhere they see fit to promote the event. Criminal defense attorney scholarships are available through TCDLEI in addition to Judge Scholarships and stipends provided by the CCA. There is also a new lawyer rate available too, encourage new attorneys to attend. The membership party this year will be a casino night with cocktail dress and no children, childcare is provided. Board members are invited to donate an item to the silent auction which raises scholarships.

Other Commission and Taskforce Reports

Indigent Defense Task Force, *Tony Odiorne*

Tony reported on New Braunfels program, reporting requirements and status on pilot program on time-keeping.

Texas Board of Legal Specialization, *Stan Schneider*

Stan reports there are continuous efforts on revising the criteria.

Committee Reports

Amicus, *Angela Moore*

Amicus is working on Aviles, the supreme courts remand on McNeely grounds, on the reconciliation of the conflict in the evading detention statues and on the juvenile life without parole issue.

Bobby personally thanked Angela for her support and pro-bono committee and applause was given for her work.

Bylaws, *Coby Waddill*

Requested input or solicitation on new amendments, none were received in Lubbock.

CDLP Report, *Michael Gross*

Michael thanked all the course directors for doing a hard job since September. He also thanked Kelly Pace for all his contributions.

- 11/21-11/22 – Capital Litigation – South Padre Island - Rick Wardroup, Jeanette Kinard, Ed Stapleton
- 12/13 – 6th Annual Jolly Roger – Denton - Cris Abel, Patty Tress
- 1/9 – PD DWI – Lubbock - Troy McKinney
- 1/9 – Nuts N Bolts – Lubbock - David Hazlewood, Dan Hurley, Chuck Lanehart and Bill Wischkaemper
- 1/10-1/11 – 33rd Annual Prairie Dog – Lubbock - David Hazlewood, Dan Hurley, Chuck Lanehart and Bill Wischkaemper
- 1/22 – Innocence 101 – Lubbock - Pat Metze
- 1/31 – Bill of Rights – McAllen

- 2/3-2/5 – Capital Case Litigators Initiative – Houston - Rick Wardroup, Carlos Garcia

DWI, Mark Thiessen

Mark formally and sincerely apologized for previous comments to Gary Trichter and Troy McKinney. Mark gave a recap of written report submitted. Discussion included Morton Act and effect on public defenders, strategies relating to pleading DWI's before blood test is back, working on drug DWI's.

Ethics, Larry McDougall

Issues still being faced at State Bar are:

- Flat fee contracts (non-refundable fee) lawyers are doing a flat fee contract and not returning unearned fees when requested and telling the client they didn't have a case
- Rule 105 Confidentiality between clients (punch out clause); returning file to client.
- PI Referrals – is not a dead issue – clients need to be made aware of a certain amount of work
- 39.14 Michael Morton waivers - prosecutors are requiring discovery waivers to be signed when cases are disposed of. The committee believes that these waivers are unethical. Questions were raised as to whether or not CCA could put together an ethics panel. Currently the super court panel doesn't have any criminal lawyers on panel.
- State Bar questioned why complaints are not being filed against prosecutors. State Bar tracks grievances filed against prosecutors. Action will be taken if justified. Questions were raised whether the individual lawyer or a committee should file the complaint. Explicit that complaint can be brought by committee against a judge; explicitly requires that individual lawyer file complaint against prosecutor. Keith Hampton also suggested that new legislation be proposed.

MOTION: Motion to authorize the President to request an opinion from the CCA on whether an association can file a complaint against a prosecutor made by Stan Schneider – motion fails due to lack of second.

Additional Legislative Requests from Board Members

- Filing a complaint against prosecutors
- Referral services
- Fee agreements - charge backs on credit card - add clause in contract that if there is a fee dispute you are authorized to disclose
- 402(d) if someone wants to talk to you even though they have counsel you can talk to them without notifying the other lawyer etc.
- Encourage more criminal defense lawyers to get involved in state bar politics
- Turn discovery back to the state to give to the new counsel

Lawyer of the Year, Bobby Mims

The committee nominates Keith Hampton and Michael Ware as the 2014 inductees

MOTION: To approve the 2014 Percy Foreman Lawyer of the Year inductees, Keith Hampton and Michael Ware made by Robb Fickman, second Susan Anderson – motion carries.

Membership Benefits, *Danny Easterling*

Danny gave current membership count of 3,239 and statistics for complimentary board memberships, renewal and reinstatements. Danny is reviewing the membership benefits comparing to other like organizations. A review of the current benefits was given with the most popular ones being the iphone and ipad apps, Voice for the Defense, lawyer locator and listserves. We are still waiting on reports to see the member usage for La Quinta and Enterprise Car Rental.

Memo Bank, *Tip Hargrove*

The memo bank continues to grow. To access the memo bank sign in to the TCDLA website then go to the members only drop down menu.

Pro-Bono, *Lydia Clay-Jackson*

Lydia Clay-Jackson has formed a committee and will be making selections. Submit any names you feel should receive this award.

Pardon and Parole, *Bill Habbern*

David O'Neil asked Bill Habbern to address the problem of mail from TDCJ.

Rural Practice, *Clay Steadman*

Written report submitted.

Technology, *Grant Scheiner*

TCDLA has a new mobile app website. Facebook continues to receive a lot of traffic along with the Voice for Defense electronic articles, working on mass texting option. Bobby recognized Grant Scheiner for all his hard work and applause was given.

Old and New Business

NCDD and TCDLA MSE

Discussion whether it is appropriate for board to discuss TCDLA and NCDD conflict. There is current no precedence for Board being involved in training. Points made were:

- Pat Metze states TCDLA is in the middle of a conflict between NCDD and Deandra Grant's group
- Gary Trichter addresses the group saying that the recommendations that have resulted in the rancor among the associations has been financial not personal –
- Grant Scheiner makes a pitch to keep TCDLA and NCDD working together and not having the Austin, DWI program at this time and figure out where, when and if one is needed, Danny Easterling supports this.
- Pat Metze and Marjorie Bachman are in favor of having the two groups together in a room with a mediator
- Tyler Flood suggests that there is a room for interest in this seminar, this seminar will be a more practical program, other from the Austin also agrees.

MOTION: To remove the Lone Star DWI: Blood 101 scheduled for Austin, from the July date and that program be added as a second day to Advanced DWI Stuart Kinard. Also have leadership appoint four members TCDLA and four members NCDD negotiate MSE made by Grant Scheiner, seconded by Bennie Ray – 3 for, motion fails.

MOTION: To have a joint panel, appoint four members TCDLA and members NCDD negotiate MSE and have a decision made by March 31, 2014 made by Grant Scheiner, seconded by Susan Anderson. – 2 for, motion fails.

Board agreed Bobby Mims should negotiate TCDLA/NCDD MSE as needed.

MOTION to adjourn at 12:58 pm. Made by Bobby Mims, seconded by Mark Snodgrass – motion carries.

Respectfully submitted,
Mark Snodgrass
TCDLA Secretary