



TCDLA Board of Directors Meeting
Minutes

Saturday, September 26, 2009, 10:03 am
Doubletree Campbell Center, Dallas, Texas

Introduction

Stanley Schneider calls the meeting to order. A quorum is present.

Roll Call:

Officers

- P Stan Schneider, President
- P Bill Harris, President Elect
- P Keith Hampton, 1st VP
- E Lydia Clay-Jackson, 2nd VP
- P Bobby Mims, Treasurer
- P Emmett Harris, Secretary

- E Steven R. Green
- E Michael Gross
- P Tip Hargrove
- A John R. Heath, Jr
- E Sam Lock
- E Constance Luedicke
- E James Makin
- A Jim Marcus
- A Reynaldo Merino

- P Tony Vitz
- P James Whalen
- E Russell Wilson, II
- E Warren Wolf
- P Reagan Wynn

Directors

- P John Ackerman
- P Susan E Anderson
- A Kerri K. Anderson-Donica
- P Stephen U. Baer
- E Robert Barrera
- P Sam Bassett
- A Jason Butscher
- A Jaime E. Carrillo
- P Jason Cassel
- P Clay Conrad
- E Harold Danford
- P Jim Darnell
- P Emily Detoto
- P Danny Easterling

- P Pat Metze
- P David Moore
- E Doug Murphy
- P John Niland
- P Dave O’Neil
- P Kelly Pace
- P Tom Pappas
- P Shawn Paschall
- E Bruce Ponder
- E William E. Price
- P George Scharmen
- P Mark Snodgrass
- P Fred Stangl
- P Gary Udashen

Associate Directors

- P Bruce Ashworth
- P Heather Barbieri
- P Lawrence Boyd
- E Fred Brigman, III
- E Erika Copeland
- E Nicole Deborde
- E Craig Henry
- A Russell Hunt, Jr.
- P Jani Maselli
- A Todd Overstreet
- P Stephanie Patten
- E Carole Powell
- P Ray Rodriguez
- A Clay Steadman
- P George Taylor
- P Coby Waddill

Key: P = Present; E = Absent but Excused; A = Unexcused Absence

Past Presidents in Attendance: Rick Hagen, Bob Hinton, Scrappy Holmes, Tim Evans, Richard Anderson, Mike Heiskell, Craig Jett, V. Perini, Ron Goranson, David Botsford.

Staff: Joseph Martinez, Cynthia Hampton, Philip Wischkaemper, Dawn Thornburgh

Minutes from the June 2009 Board meeting in San Antonio are approved.

Comments from the President, Stanley Schneider

Stan thanks the course directors for the CLE just held.

Building update: LEI is moving forward to purchase a building for \$875,000.

A report was issued on Pickett and press conference held in Austin.

TCDLA submitted 10 names to the governor's office for appointment to the Forensic Science Commission, recommending that Sam Bassett be reappointed.

Harris County PD start-up. Senator Rodney Ellis is a proponent. The issue is extremely divisive for Harris County lawyers. Stan recommends TCDLA take no position. He told Sen. Ellis that we would help train the PD's if they receive the funding, as an example to the rest of the state.

John Ackerman suggests creating a template as an example.

Stan suggests a committee to draft a document creating the structure. Clara Hernandez remarks there are ABA and NLADA guidelines for PD offices. We need a general statement regarding (1) insulation for the chief PD from being terminated on the whim of the county commissioners, and (2) proper funding.

- Motion to create a position on minimum standards for operating PD offices and post on the website and publish in the Voice. John Ackerman will head up the committee.
- Motion Carries.

Introduction of Guest: V. Perini introduces Thomas Jacobs, attorney from Arizona, who won the Gant case in the U.S. Supreme Court. He will be coming to Rusty.

Forensic Science Commission: Sam Bassett

Sam reports that in 2007, the Commission was finally funded by the legislature and a staff person was hired. Sam has been Chair for 2 years. The Commission has 3 active investigations. Ten names were submitted to the governor for the position of Chair. Sam urges TCDLA to support the Commission.

Introduction of Guests:

Reagan Wynn introduces Justin Sparks, his new associate.

Members Sarah Roland and Richard Gladden are also present as guests.

Email Motions adopted.

Information and a report were circulated via email to the Board asking for and receiving approval of TCDLA to support the work of Jeff Blackburn and his team for exposing sheriff Pickett and his junk science dog sniff line-ups.

- Motion to adopt email motions, as described above.
- Motion Carries

Executive Director's Report: Joseph Martinez

Joseph reports we have trained 5100 lawyers. He compliments Cynthia and Philip for their work on the publications.

Joseph met with Emmett and the Uvalde folks about starting an affiliate group.

Joseph shows a video promo that he wants to use for Rusty 2010. Susan and Reagan update on Rusty planning. Tom Mesero (Michael Jackson's lawyer) is the featured speaker.

3000th member: Delia de la Garza from Houston.

Stan reports on complaint by Cindy Holcomb (daughter of Weldon) who is upset that Bobby Mims sponsored Cynthia Stevens Kent for membership (which was complimentary, and she may not renew). Cindy contacted several members regarding the issue. Bob Hinton reports on his conversation with her and recommends nothing needs to be done. Stan appointed Keith to call her.

Joseph reminds board members that when they were appointed to the board their dues increased to the sustaining category of \$200 per year.

Joseph reports on the social network issue at the home office.

Capital Assistance Report: Philip reports on Forensics. Some speakers have dropped out.

His office is assisting with the publications again this year.

There are currently 6 DP cases being tried.

CDLP Report

Mark Snodgrass. (See CDLP Minutes)

Budget: Stan reports

We have a shortfall of \$80,000 for FY 2010 because we will not receive scholarships.

- Motion: Stan moves to approve the TCDLA budget
 - Motion Carries
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Publication Report: Cynthia Hampton

We have just released the 2009-2010 Codebook. It is a 1-volume PC/CCP combination.

Search & Seizure 2nd edition, updated by Kelly Pace, is at the printer and should be available for sale next week.

We are working on a non-Penal Code crimes book that will include excerpts from all codes that have criminal consequences, as well as the Texas Constitution and the Rules of Evidence and Appellate Procedure.

Already out is the 2nd ed of the Appellate Manual, which was for sale at Rusty.

The only cheat sheet we have updated is Expunction/Nondisclosure.

We expect to be updating Texas Punishment, Losch, and Texas Writs in the coming year.

Susan Anderson is updating her Board Specialization Study Outline.

The Larkin Evidence Manual now belongs to TCDLA, so we will also be working on its update.

Sales have been down but with the new codes and other updates we expect them to go up again.

Cynthia thanks Philip, part-time research attorneys Kathleen Nacozy, Celeste Villarreal, Kristi Ward and Cynthia Mendoza, as well as all the Lubbock law clerks, who have worked on publications.

Marketing Committee Created

Keith Hampton wants a marketing committee to explore how to better market and sell our publications. Stan agrees, and appoints Keith to head up said committee.

Voice: Greg Westfall

Voice is doing well. Greg urges everyone to write an article, as they agreed when they were appointed to the board. Except for Fred Stangl, who has agreed to update our state forms CD again.

Greg also describes his idea for a Voice website, which is in the works.

New Affiliate: Collin County Criminal Defense Lawyers

- Motion to approve CCCDLA as a TCDLA affiliate
- Motion Carries

CCCDLA wants to donate \$1000 to trial college for scholarships. Stan wants staff to contact other affiliates and ask whether they will do the same.

Committee Reports

Death Penalty: John Niland reports there are 10 death sentences this year. We have 2 seminars – Austin and Houston. Jack Stoffregen reports on the Lubbock office's work.

Nominations: Bill Harris has appointed the committee. Mike Heiskell asks that we actively recruit people of color for appointment to the board. Pat Metz suggests we also need more women.

Strike Force: Mike Heiskell reports it has been fairly quiet except for the Ben Webb contempt, which will be resolved this coming Tuesday.

New Business: Malpractice Insurance

The Texas Supreme Court and the State Bar want to require lawyers to disclose to clients whether they carry malpractice insurance. There have been public hearings around the state. The issue concerning TCDLA is whether criminal defense lawyers even need it. Grant and Dan Hurley were asked to make talking points for affiliates and urge them to go to meetings. We may want a membership referendum on the issue. Gary Udashen suggests getting the CCA judges to talk to the Sup Ct re: necessity of insurance for criminal defense lawyers.

Audit

Joseph reports the 2004-2008 was just completed, and there were no issues.

- Motion to approve the audit
 - Motion Carries
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Appellate Specialization: Bill Harris

In 2007 TCDLA adopted a position opposing a separate specialization for criminal appellate law. Buck Files reports that TBLS is having discussions regarding the matter. Question is whether TCDLA should change its position. It is established that sufficient notice of the question has been given to the board because of the various emails that have gone to the members stating background and various positions.

- Motion to rescind TCDLA's prior position opposing appellate specialization
- Motion Seconded

Discussion:

Craig Jett explains what happened 2 years ago. The board voted 18-11 against, which is a 62% to 38% majority. A letter and report were sent to the TBLS stating our position.

Stan wants TCDLA to rescind that position and reconsider supporting the specialization in view of the fact that Judge Cochran is a proponent, and there is now a "grandfather" clause allowing everyone certified in criminal law to qualify for appellate without taking a test.

Craig states there are currently no standards being considered by the TBLS, although the original draft by the prior ad hoc committee has been amended and was circulated to the board prior to and at this meeting.

Buck Files states the TBLS has taken no action on the specialization but will seek input from lawyers, prosecutors and judges.

John Ackerman suggests that since nothing is currently pending with TBLS, TCDLA need not do anything at this point until such time as the matter is before the TBLS, so perhaps the motion should be tabled for now.

- Motion: Clay Conrad moves to table the motion to rescind

Second: Tip Hargrove

Vote: 17 Ayes, 15 Nays

- Motion Carries – Motion to rescind is tabled

Further discussion

Buck states the TBLS Chair said it is up to TCDLA to bring the matter to TBLS, and that TBLS considers whether a new specialization is in the public interest.

- Motion: Craig Jett moves to send a position letter saying we are still opposed.

Second: Keith Hampton

- Motion fails

Stan gives notice that this issue will be on the agenda for December's meeting.

Adjourn: 12:17 pm

Respectfully submitted,
Joseph A. Martinez
Executive Director