

VERMONT BAR ASSOCIATION
Board of Manager Meeting
Friday, September 11, 2020 1:00PM
Via Webex Conference

Present: David Carpenter, Amy Davis, Josh Diamond, Judith Dillon, Tom Durkin, Bob Fletcher, Gary Franklin, Molly Gray, Elizabeth Kruska, Andrew Manitsky, Beth Novotny, Ted Tyler, James Valente, Matt Valerio, Alfonso Villegas (guest).

Staff: Mary Ashcroft, Teri Corsones, Jennifer Emens-Butler, Lisa Maxfield.

Absent: Katelyn Atwood, Jim Rodgers, Ben Traverse.

1. Call to Order: The meeting was called to order at 1:07 PM by President Beth Novotny.

2. Emerging Issues: Beth and Teri noted the letter written by Judge Helen Toor concerning the recent decision not to use lawyers as acting judges in Small Claims Court. This decision was made by Judge Grearson; the reason may be related to issues associated with training non-judges on using the new Odyssey e-filing and case management system.

3. Acceptance of Consent Agenda

A. Minutes: Amy Davis moved to accept the minutes of the July 17th and August 5th Board meetings. Bob Fletcher seconded. The motion was unanimously approved.

B. Treasurer's Report: CFO Lisa Maxfield reported that the VBA finished the fiscal year in the black by just over \$52,000. This was due to both an increase in income, particularly in Lawyer Referral Service revenues, and big savings in expenses, particularly as our Mid-Year Meeting was virtual.

C. Executive Committee: No meeting, no report.

D. Board Committee Reports:

--Operations: No report.

--Membership: No meeting, no report.

--Program and Planning: Andrew Manitsky reported that the committee met briefly that morning. They discussed whether to hold the 2021 Mid-Year Meeting virtually or in person, but no decision has yet been made. Andrew also noted that educators may soon be contacted to have students participate in the competition for the VBA's Civics Award.

--Pro Bono: No meeting, no report.

--Governance: No meeting, no report.

--Workforce Study Committee: No meeting, no report.

--COVID-19 Committee: Bob Fletcher reported that the committee has met regularly.

Items in the works include a survey to the bar concerning COVID-19 long- and short-term impacts on the practice of law. The committee is also working on its 3rd submission to the Judiciary concerning remote court participation challenges as well as a guide on remote hearings to include practical advice and suggested best practices.

E. President's Report:

--Beth reported on several of her activities as President including a now monthly call with Chief Justice Reiber, participation in the now-monthly COVID-19 conference calls, and participation in the now-monthly section chairs/county bar presidents conference calls. Beth will talk next week with Elizabeth Kruska, incoming President, about transition matters.

--E-filing: Beth reported on the many efforts of the VBA to work with the Judiciary on this issue. Federal CARES monies are being used to pay the e-filing fees through Dec. 30, 2020. The next step was for the Judiciary to meet with user groups and report to the Legislature. VBA tried for a long time to set up these e-filings meetings with the Judiciary. Now, several months later, we have heard—not from the Judiciary, but from a consultant hired by the Court hired to set up a survey. Beth was disappointed that the Court is using this intermediary and is concerned that the Judiciary is not solution-oriented on this matter.

--Things put on hold: Because of the COVID-19 pandemic, a number of initiatives were put on hold, such as the Civics Award and the constitutional discussion and education panel. Beth will discuss these with Elizabeth and offer to help move them along during Elizabeth's presidency.

--Beth thanked Board members for the VBA chair she received, and also for their support, guidance, wisdom, and commitment to the VBA membership and the profession.

F. Executive Directors Report:

--E-filing: Teri noted that Chief Justice Reiber indicated that he is formulating a response to the Legislative Committee on Judicial Rules' request of August 28, 2020 to put the e-filing roll out on hold. The Court Users' group has met to prep for the consultant's meeting later this month, and Teri has consolidated a list of problems identified and in need of immediate correction. The Alternative E-filing Fee group will meet with the consultant next week.

--Legislature: Lawmakers are focused primarily on the budget for the remaining ¼ of this fiscal year. Senate Natural Resources Committee did take testimony on possible Act 250 changes but is moving forward only with very small changes. There is also a bill to correct a gap in the RFA process. Otherwise, activity in the Legislature impacting the bar has revolved around the Senate Judiciary hearings regarding e-filing.

--Chief Justice Reiber has suggested a round of bench-bar meetings involving him and county bar associations. The Opening of the Term was held remotely in Rutland this year, and included all judicial officers in the unit and Justice Cohen as liaison for the Supreme Court.

--Board packet: Teri noted that the Board packet included the 2019-2020 VBA Annual Report and the 2019-2020 Client Security Fund Annual Report. She congratulated the staff, section chairs, division chairs, committees and county bar association for their dedication and leadership, especially during the last six months of the reporting period. The Annual Report reflects the tremendous amount of work done to keep the membership abreast of all the emergency orders, rules, legislation and COVID-19 matters. She noted that the Client Security Fund Annual Report showed a healthy balance and no claims made this past year. A flyer about the Constitution Day presentation has triggered lot of requests for pocket constitutions. The VBA website now includes a number of job board postings for bar examinees. Twenty-four bar examinees have signed up for free VBA membership

--Relations with the Judiciary and E-filing: Teri and Beth were asked whether the Judiciary's lack of response toward our e-filing concerns was reflected in other issues, too. Beth indicated no, that her and Teri's discussions with the Chief were collaborative and productive. Beth is

concerned that Pat Gabel's hiring of the consulting firm in the e-filing matter has put an intermediary between us and them, and the move is not directed toward finding a solution. Matt Valerio said that the issue of e-filing comes up at every meeting of the Senate Judiciary Committee. The Defender General's office will be doing an independent training on how to use the e-filing system—about 250 to 300 people will be involved – because of complaints that the training provided by the Judiciary has been insufficient. Law enforcement has indicated it was not adequately notified about the switch to the Odyssey system and cannot track conditions of release or active warrants without this information. Amy Davis has noticed that the CAO blame of lawyers has impacted some court staff interactions.

Judge Durkin reminded the Board that there are two components to what is occurring: the e-filing system which has not been implemented in BRACE counties, and the Odyssey case management system that was started in BRACE counties effective 9-2-20. In short, judges in BRACE and WOW counties are now paperless. He noted that it is challenging; other judges have been helpful, but Tyler Technology and Judiciary tech resources less so.

Matt asked who receives the excess receipts from the e-filing fees? Do they go to the Judiciary, to the general fund or to Tyler? That might explain the motivation for certain actions. The recollection among Board members who had looked into the contract between the Judiciary and Tyler was that Tyler keeps these funds.

G. Staff reports:

--Mary Ashcroft reported that although the low bono referral panel now has over 140 lawyers, there has been a flood of cases being referred that she is having difficulty placing. There is a special need for low bono attorneys in family matters, and in the southern counties. Mary urged the board to spread the word and encourage others to sign up to take low bono cases.

--Jennifer spoke about annual meeting CLEs and discounts available for signing up for various programs. Sign up seems to be going well so far. The VBA has also picked up sponsors, including ALPS who sent a 30 second video. Upcoming programs include Basic Skills, the Annual Meeting, Tech Week, Real Estate Law Day and Bankruptcy and Elder Law programs. It will be a very busy fall. The VBA Journal was a month late to print for the summer edition, and Jennifer estimates that the fall edition will be published in October.

H. VBF report: Elizabeth Kruska reported that the Vermont Bar Foundation Board recently met. IOLTA revenues are high right now. The Board hired Josei Leavitt as Development Director. Josie has lots of energy and will expand the Foundation's fundraising techniques to include social media, and more outreach. The VBF also modified its grant to Vermont Legal Aid to allow VLA to do some foreclosure work in addition to the holistic eviction work it is doing. Gavin Boyles is the new VBF Board President; Renee Mobbs is President Elect; Justice Karen Carroll remains as Secretary and Chris D'Elia as Treasurer. Beth announced that she had appointed Bob Fletcher as the Board representative on the VBF Board.

Elizabeth also advised that the VBF was meeting with the Access to Justice Coalition to better define the role of fundraising and oversight of the A2J/Poverty Law Fellow Program. They are planning to update an MOU to set out the role of each organization. The VBF wants a part in selecting and overseeing the recipients of the grants. The VBF should also receive some portion of the funds it helps raise to support the position of VBF Development Director, as that position is grant funded for only two years.

I. A2J report: Teri Corsones reported that the Legislature had provided \$150,000 in CARES act funding to the A2J Coalition; another legislative ask is underway. Dan Richardson is spearheading the effort, which will seek funding for rent eviction and family law clinics.

4. Action

A. VBA Board Seat: Beth Novotny announced that she had appointed Bob Fletcher as the Board's representative to sit on the VBF Board.

B. Volunteer Poll Workers Project: Teri announced that the VBA is partnering with the Vermont Secretary of State to encourage lawyers and law students to volunteer as ballot clerks on election day. Upon motion made, seconded and unanimously approved, the Board agreed to the press release announcing this project. The announcement will also go to the Vermont League of Cities and Towns. Interested lawyers and law students should contact their own town clerks to volunteer.

C. PRB report: Mike Kennedy provided a letter to the VBA Board which contained the PRB's annual report. There are two items of interest to which the VBA Board should respond. The first is possible review of the issue of whether to mandate that all attorneys carry professional liability insurance. The second is the suggestion of forming a committee to further explore licensing and regulation of non-attorney legal professional services. Upon motion made, seconded and unanimously approved the VBA Board agreed to send a letter back to the PRB indicating the VBA's interest in sending representatives to each committee should either be formed.

D. Enrollments: Upon motion made, seconded and unanimously approved, the following individuals were enrolled as VBA members. Attorney Members: Boone, Jill E., Esq.; Crowley, Stephen E., Esq.; Debeauvais, Angelina L., Esq.; Fletcher, Bradley, Esq.; Hammerslough, Ira P., Esq.; Pearson, Candace E., Esq.; Subin, Andrew L., Esq.; Warren, Margarita I., Esq.; Burdyshaw, Cassandra, Esq.; Eberly, Kelsey R., Esq.; Ferrini, Thomas G., Esq.; Gallagher, Dylan S., Esq.; Harrigan, William Bradford, Esq.; Martin, Samuel H., Esq.; McGintee, Kathryn W., Esq.; Pajcic, Seth A., Esq.; Schneider, Martin, Esq.; Sloan, Jason S., Esq.; Yoquinto, Elizabeth B., Esq. Associate Members: Bence, Cydnee; Bradtmiller, Danielle; Brown, Daniel; Canellys, Benjamin; Chase, Victoria; Flanagan, Kathleen; Grove, Lewis; Gutfreund, Renato Scott; Kauppila, Eric; Orekondy, Vinayak; Pakbaz, Debby; Palleschi, Alexandra; Post, Dillon; Rhoden, Miriam; Stanbury, Amy; Tackaberry, Natalie; Teller-Elsberg, Jonathan; Trif, Soledad Alina; Weeks, Tiffany; Bulgini, Carl; Connors, Kristen; Larson, Jack.

5. Discussion: There was brief discussion of the upcoming Board meeting on October 1st. It was agreed that the VBA Board will meet via WebEx from 10AM to noon, then the Board will meet by conference call with the Supreme Court from noon to 1PM. The annual business meeting of the VBA membership will be at 4PM that day.

6. Executive Session: None.

7. New Business: None.

8. Old Business: None.

9. Adjourn: Upon motion made, seconded and unanimously approved, the meeting was adjourned at 2:57 PM.

Respectfully Submitted:

VBA Staff